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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME:

89

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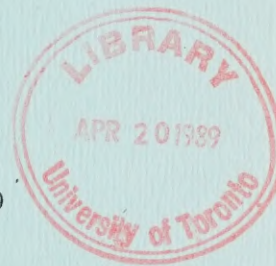
Tuesday, April 11th, 1989

BEFORE:

M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Tuesday, April 11th,
1989, commencing at 9:00 a.m.

VOLUME 89

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH)	RESOURCES
MS. K. MURPHY)	
MS. Y. HERSCHER)	
MR. B. CAMPBELL)	MINISTRY OF ENVIRONMENT
MS. J. SEABORN)	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN)	ASSOCIATION and ONTARIO
MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY.)	ASSOCIATION
MR. J. WILLIAMS, Q.C.	ONTARIO FEDERATION OF
MR. B.R. ARMSTRONG	ANGLERS & HUNTERS
MR. G.L. FIRMAN	
MR. D. HUNTER	NISHNAWBE-ASKI NATION
	and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MR. P. SANFORD)	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD)	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF
	LABOUR
MR. R. COTTON	BOISE CASCADE OF CANADA
	LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES)	ASSOCIATION
MR. R. EDWARDS)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	

APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.) MR. B. BABCOCK)	RED LAKE-EAR FALLS JOINT MUNICIPAL COMMITTEE
MR. D. SCOTT) MR. J.S. TAYLOR)	NORTHWESTERN ONTARIO ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL) MR. S.M. MAKUCH)	GREAT LAKES FOREST
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. D. COLBORNE	GRAND COUNCIL TREATY #3
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MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
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MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY
MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON

(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO
TOURISM ASSOCIATION

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<u>PETER PHILLIP HYNARD,</u>	
<u>JOHN TRUMAN ALLIN,</u>	
<u>RICHARD BRUCE GREENDWOOD,</u>	
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I N D E X O F E X H I B I T S

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502	Paper by G. D. Racey, entitled: Dissolved Oxygen Depletion by the Roots of Conifer Seedlings During Root Soaking, 1984.	14826
503	Paper entitled: Spring Storage and Quality of Planting Stock by Messrs. Navratil, Neil and Mouck, School of Forestry, Lakehead University, April, 1976.	14826
504	Hand-drawn sketch by Dr. Allin explaining headwater areas.	14860
505	Copy of letter dated August 24, 1981 addressed to Mrs. LeBrun, spokesperson for the Oba Lake property owners.	14923
506	Map depicting District of Hearst.	14935
507	Timber Management Plan for the Magpie Forest.	14936
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509	Copy of letter from Gilles Dubrueil.	14978
510	Supplementary documentation from the Magpie Forest Timber Management Plan, 1989 to 2009.	14993
511	Memorandum to Mr. Rudolph, the District Manager of Wawa, dated February 2, 1988, with terms of reference attached.	15000

1 ---Upon commencing at 9:35 a.m.

2 THE CHAIRMAN: Thank you, ladies and
3 gentlemen. Please be seated.

4 Ladies and gentlemen, there has been a
5 slight change for the presentation of the evidence
6 today.

7 Mr. Mander has been advised by a
8 solicitor in Mr. Colborne's office that they have
9 decided that they are not going to cross-examine this
10 panel on behalf of Grand Treaty No. 3. They, of
11 course, were scheduled to cross-examine today and the
12 estimate was at least one-half day. Obviously, that
13 time will now be able for something else.

14 In addition to Mr. Tuer revisiting a
15 certain matter with this panel for a short period of
16 time, Mr. Edwards, on behalf of Tourist Outfitters, is
17 going to be cross-examining this panel as well today,
18 but Mr. Hanna, on behalf of the Federation of Anglers &
19 Hunters cannot be present to commence cross-examination
20 until tomorrow morning.

21 And our best estimate, up until this
22 morning, was that we had Mr. Colborne and Mr. Edwards
23 and Mr. Tuer going today and that likely that
24 organization wouldn't be reached until tomorrow. They
25 had made their plans on that basis and, unfortunately,

1 it was on account of the fact that Mr. Colborne's
2 office has advised they won't be cross-examining that
3 we may have to adjourn early today and commence first
4 thing tomorrow morning with Mr. Hanna.

5 So it is one of these situations that,
6 effectively, our hands are tied. The Board doesn't
7 really wish to waste this time unnecessarily, but I
8 don't know what we can do under the circumstances.

9 Mr. Edwards, can you give us an
10 indication how long you might be in cross-examination?

11 MR. EDWARDS: About half a day, Mr.
12 Chairman.

13 THE CHAIRMAN: About half a day.

14 MR. EDWARDS: Perhaps into the afternoon,
15 but I won't take a full day.

16 THE CHAIRMAN: All right. Well, I think
17 when we are concluded with your examination, we will
18 just adjourn for the day.

19 MR. FREIDIN: Is Mr. Hunter going to be
20 cross-examining?

21 THE CHAIRMAN: I understand that he is,
22 but I am not sure exactly when.

23 MS. PALOWSKI: On the 24th I believe, or
24 as soon as Anglers & Hunters are finished.

25 THE CHAIRMAN: I see. The estimate from

1 the Anglers & Hunters were three days. So if we
2 commence with them tomorrow, we certainly won't finish
3 Thursday and we will continue with them when we return
4 on the 24th and then go to Mr. Hunter.

5 Okay. If there is no more business in
6 terms of procedural or preliminary matters, we can go
7 to Mr. Tuer.

8 MR. GREENWOOD: Mr. Chairman? You had
9 requested last week, resulting from some
10 cross-examination by Ms. Swenarchuk, that I provide
11 some information.

12 THE CHAIRMAN: Yes.

13 MR. GREENWOOD: I have that information
14 now. The first request from Ms. Swenarchuk was for
15 research studies or papers that I could obtain that
16 dealt with the subject of moisture relations in
17 seedlings. I had mentioned the word soaking study.

18 I have one paper by a Mr. G. D. Racey,
19 R-a-c-e-y, which is entitled: Dissolved Oxygen
20 Depletion by the Roots of Conifer Seedlings During Root
21 Soaking.

22 This is a forest research note which is
23 put out by the Ministry of Natural Resources just
24 dealing with this practice of root soaking prior to
25 outplanting which is a fairly common field practice

1 that was produced in 1984.

2 The second paper which I was able to
3 obtain was an internal report for the Ministry of
4 Natural Resources entitled: Spring Storage and Quality
5 of Planting Stock. It is a progress report by Messrs.
6 S. Navratil, N-a-v-r-a-t-i-l, B. S. Neil, N-e-i-l,
7 and A. R. Mouck, M-o-u-c-k, of the School of Forestry
8 at Lakehead University and it is an April, 1976 study
9 which examined some of the practices within nurseries
10 in the storage and handling and to the field practice
11 of storage and handling of nursery stock.

12 And the pertinent section is Section 4 of
13 that paper which deals with moisture relations in
14 nursery stock and some of the information which he has
15 obtained about storage and handling.

16 THE CHAIRMAN: How do you intend to
17 handle these? Are these going to come in as exhibits,
18 Mr. Freidin?

19 MR. FREIDIN: Perhaps at this stage we
20 can just provide them to Ms. Swenarchuk. I would like
21 to reserve a decision as to whether we file them until
22 a later time.

23 THE CHAIRMAN: Were you intending to hand
24 them out to any of the other parties or just to Ms.
25 Swenarchuk?

1 MR. FREIDIN: Mr. Chairman, we will file
2 them.

3 THE CHAIRMAN: Okay. Exhibit 501.

4 MR. FREIDIN: That being the 1984 paper
5 by Racey?

6 THE CHAIRMAN: Just a moment, I think we
7 are up to Exhibit 502, actually. Paper by Racey.

8 MR. FREIDIN: Racy, R-a-c-e-y.

9 THE CHAIRMAN: Sorry. That's 502.

10 ---EXHIBIT NO. 502: Paper by G. D. Racey, entitled:
11 Dissolved Oxygen Depletion by the
12 Roots of Conifer Seedlings During
Root Soaking, 1984.

13 THE CHAIRMAN: Exhibit 503 will be the
14 exhibit on the planting stock.

15 ---EXHIBIT NO. 503: Paper entitled: Spring Storage and
16 Quality of Planting Stock by
17 Messrs. Navratil, Neil and Mouck,
School of Forestry, Lakehead
University, April, 1976.

18 MR. GREENWOOD: Mr. Chairman, the line of
19 question was whether there was concern for moisture
20 relations within trees. If we are going to file these
21 as exhibits, then I would draw to your attention the
22 conclusion of Mr. Navratil, the 1976 paper where his
23 overall observations and conclusions in Section 6 where
24 he opens in a general category with the comment:

25 "Judging from past experience..."

1 MR. FREIDIN: I don't have the page.

2 Page 47?

3 MR. GREENWOOD: I'm sorry, page 47 of the
4 document, that's correct.

5 THE CHAIRMAN: That's the last exhibit,
6 the 503...?

7 MR. GREENWOOD: That's correct. And he
8 states:

9 "Judging from past experience over the
10 last four years in northern Ontario the
11 quality of storaging and the knowledge of
12 forestry personnel responsible for
13 handling storaging and planting has
14 dramatically increased preventing serious
15 Mistakes. Also judging from the
16 literature and my own personal
17 communications, the research and field
18 experience existing in the Ontario
19 Ministry of Natural Resources is second
20 to none in Canada."

21 THE CHAIRMAN: Thank you.

22 MR. GREENWOOD: The second item that I
23 was to clarify dealt with an appendix in an article in
24 a reference to my paper entitled: Susceptibility of
25 Forest Soils to Compaction during Logging Operations in

1 the Northern Region Clay Belt by Messrs. Shurman and
2 Mackintosh, and this dealt with an appendix which
3 started on page 496 of Exhibit 416A.

4 After numerous phone calls over the
5 weekend, I think I now have the explanation for this
6 appendix. I would start by stating that the appendix
7 is not part of the Shurman and Mackintosh paper which,
8 of course, raises the question as to how it got here
9 and the reason for the numerous phone calls.

10 When I originally started documenting my
11 evidence I had requested information from my co-workers
12 on various subjects and I was given a photocopy of the
13 Shurman and Mackintosh paper and utilized that copy of
14 the paper as my working copy and, in fact, it was the
15 paper which was subsequently reproduced for the
16 document.

17 What I didn't know was that the person
18 who gave me that information had included other
19 information helpful to the copy and had bound it in the
20 back of that paper and, in fact, that's how this
21 Appendix 5 which comes from another document was found
22 with the original document.

23 After the questioning last week I did
24 check the original document which I was able to get a
25 copy of and there is no Appendix 5. The title page

1 appendix and then the two tables which are included
2 prior to Appendix 5 are part of the document. So 493,
3 494 and 495 are included as part of the Shurman and
4 Mackintosh article.

5 Now, the Appendix 5 which does relate to
6 compaction and rutting was Appendix 5 to a document
7 which was requested by the group where I was working .
8 with at the time, the Northern Forest Development
9 Group, a technology development unit in Timmins and was
10 part of another document which was entitled: Soil
11 Survey of Intensive Forest Management Area, and this
12 dealt with an area and a program being carried out by
13 the technology development unit dealing with intensive
14 forest management trials and these trials were normally
15 concentrated within one block.

16 And, therefore, in order to ensure that
17 the trials were located properly within that block,
18 detailed soil surveys were contracted and requested.
19 An appendix to that document is, I guess -- the
20 particular block in question was in Stoddard Township
21 in Hearst which is within this Clay Belt area. The
22 area was only partially harvested at that time and the
23 person responsible for this contract requested of the
24 contractor that they provide some information that
25 might be pertinent to the harvesting of the rest of the

1 block in such a way that these trials could be put in
2 without introducing variability on the site.

3 One of the authors, one of the co-authors
4 and contractors for this detailed soil survey was Dr.
5 Mackintosh, one of the co-authors of other paper. This
6 particular document was produced in 1986 shortly after
7 Dr. Mackintosh's first paper came out and he utilized
8 information from that paper to produce Appendix 5 of
9 the subsequent contracted soil survey.

10 So Appendix 5 was -- one of the authors
11 of Appendix 5 which is included was Dr. Mackintosh who
12 produced the first paper and that's why the information
13 does correspond with the paper.

14 THE CHAIRMAN: You should have been a
15 part of a of detective business. It's an interesting
16 story.

17 MR. HUFF: Excuse me.

18 THE CHAIRMAN: Yes?

19 MR. HUFF: Forests for Tomorrow wants you
20 to recognize that we may want to comment upon this in
21 the future and Ms. Swenarchuk will be down shortly.

22 I would have thought that perhaps we
23 could have been asked whether she was going to be here
24 this morning, so she could have had a chance to reply
25 to directly. I don't know if that's procedurally

1 correct, but...

2 THE CHAIRMAN: Well, the Board in hearing
3 Mr. Greenwood, of course, didn't realize that it would
4 get into this involved an explanation.

5 But, in any event, Ms. Swenarchuk will
6 have the opportunity and she can read the transcript in
7 terms of this material and after she has seen the other
8 material, have an opportunity to ask further questions.

9 MR. HUFF: Thank you.

10 THE CHAIRMAN: Were you intending to
11 produce the second paper to which Appendix 5 is
12 properly attached.

13 MR. GREENWOOD: There was only one copy
14 because it was a result of a contract. I had it flown
15 over so that it could be examined. The people in
16 Timmins suggest that they don't need it in the near
17 future, but they would like it back.

18 I suppose, it could be reproduced. It
19 does have maps which would be difficult to reproduce,
20 but the body of the report could be photocopied, or
21 this one could be made available for examination.

22 THE CHAIRMAN: All right. Why don't we
23 handle it this way: I am sure Ms. Swenarchuk will be
24 prepared to deal with any questions relating to it
25 fairly soon - certainly we can probably do that this

1 week - so if you would make it available to her this
2 week we won't admit it at this time, but we will -- if
3 she asks any further questions on it we will admit a
4 copy.

5 MR. GREENWOOD: Certainly.

6 THE CHAIRMAN: And then you can send that
7 one back and deal with it in this fashion.

8 Thank you. Very well, Mr. Tuer.

9 MR. HYNARD: Mr. Chairman, if I could
10 before we -- Ms. Swenarchuk asked me for information
11 yesterday also. Would you like me to...?

12 THE CHAIRMAN: Well, I think we will wait
13 until Ms. Swenarchuk arrives so that perhaps we can
14 deal with her comments right at that time. I think we
15 have kept Mr. Tuer waiting long enough.

16 MR. TUER: I'm here anyways, Mr.
17 Chairman.

18 THE CHAIRMAN: So we will hear from you
19 now.

20 DAVID LOWELL EULER,
21 PETER PHILLIP HYNARD,
22 JOHN TRUMAN ALLIN,
23 RICHARD BRUCE GREENWOOD,
CAMERON D. CLARK,
GORDON C. OLDFORD, Resumed

24 FURTHER CROSS-EXAMINATION BY MR. TUER:

25 Q. Members of the Panel, do you have

1 Exhibit 492 before you? That's the document headed
2 Training Message - Moose Guidelines.

3 DR. EULER: A. Yes, I have it.

4 Q. Attached to it is Training Message -
5 Fish Guidelines.

6 A. We have copies that we can share I
7 think, Mr. Tuer.

8 Q. Thank you, Dr. Euler. Now, Dr.
9 Euler, I gather that this is -- this documentation is
10 very recently produced; is it?

11 A. That's correct, yes.

12 Q. In the last several days?

13 A. Yes.

14 Q. And I recognize that it may not be in
15 the final form in which it will be issued in the field?

16 A. That's right, that's why those words
17 Draft are at the top.

18 Q. I know what that word means. And in
19 the third paragraph under -- beside the word Response
20 there is reference to:

21 "A letter outlining the rationale..."
22 and so forth. I gather that letter has not yet been
23 issued?

24 A. Well, not to my knowledge it hasn't,
25 but this is all fast-breaking developments, so it could

1 have been without any knowledge.

2 Q. Have you been involved and
3 participated in the draft of this document?

4 A. That's correct. Yes, I have

5 Q. Have any other members of the panel?
6 Dr. Allin?

7 DR. ALLIN: A. I have reviewed some of
8 the material in the responses with respect to fish
9 guidelines.

10 Q. Thank you. Dr. Euler, has there been
11 any industry input into this document?

12 A. To the best of my knowledge, no.

13 Q. Dr. Allin?

14 DR. ALLIN: A. I'm not certain of that
15 either but, again to the best of my knowledge, no.

16 Q. In any event, Dr. Euler, is it fair
17 to say that this document is intended to reflect the
18 opinion of the MNR as to how the guidelines are to be
19 interpreted?

20 DR. EULER: A. Yes, I believe that's
21 fair.

22 Q. Both with respect to the moose
23 guidelines and, Dr. Allin, the fish guidelines?

24 DR. ALLIN: A. Yes.

25 Q. And this arises out of the

1 difficulties that you mentioned in your evidence, Dr.
2 Euler, in application of the guidelines and in fact
3 appears to reflect that observation where it reads in
4 the first page:

5 "Guidelines are being applied more or
6 less rigorously in various regions.
7 Different philosophies of
8 application prevail."

9 DR. EULER: A. Yes.

10 Q. That sums up the problem?

11 A. That sums up that particular issue,
12 yes.

13 Q. Then I would like to quickly go
14 through several of these pages and make sure that the
15 intent of the MNR is reflected by the words used.

16 First of all, on page 3, Dr. Euler, here
17 we're dealing with the moose guidelines, the next
18 several questions. Under the heading Response:

19 "The intent is to choose a design which
20 meets moose objectives, is more cost
21 effective and minimizes wood loss."

22 By wood loss, are those words referring
23 to leave cuts?

24 A. Not specifically -- well, yes in a
25 way. In a way, yes, but not specifically and not

1 exclusively leave cuts. The general concept is you
2 make the loss of wood to the timber company as small as
3 you possibly can, whatever device is there, you try to
4 minimize it.

5 Q. It includes leave cuts; does it?

6 A. It could include leave cuts, yes.

7 Q. Then going down to paragraph No. 1:
8 "initially distribute the harvest areas
9 and follow natural boundaries."

10 Now, by harvest areas, are you referring
11 to harvest areas over a road system, or harvest areas
12 in an entire management unit?

13 A. Well, in an entire management unit in
14 general. In other words, you do your best to
15 distribute the harvest area as best you can over the
16 entire unit.

17 Q. Taking into account the network of
18 roads?

19 A. Absolutely.

20 Q. You're including those?

21 A. Yes, of course, and the cost of those
22 roads and all those things. Again, you see, this is an
23 ideal that you strive for, you don't always achieve it
24 but you work towards it.

25 Q. Yes, I understand that this assists

1 the people in the field in defining the guidelines?

2 A. That's right.

3 Q. Now, at the bottom of that page it
4 reads:

5 "Shelter patches were meant to

6 address 100-200 ha. clearcuts.

7 The checkerboard (50% cut & leave)

8 configuration was meant to address

9 larger areas."

10 That is to say, larger than 200 hectares?

11 A. Yes, in general.

12 Q. How large might those areas be?

13 A. Well, there isn't -- I can't give you
14 a specific number. It is just in general areas larger
15 than 200 hectares.

16 Q. Not confined by any specific number
17 of hectares?

18 A. No, no.

19 Q. We've heard of various sizes of large
20 clearcuts. Would you be talking about thousands of
21 hectares?

22 A. It's possible, yes.

23 Q. All right. On page 4 in the Response
24 it speaks of:

25 "Areas of residuals...."

1 Residuals are trees that are left because
2 they don't have any merchantable value?

3 A. Can you just check with one of my
4 forestry colleagues to make sure that that's correct.

5 Q. I will ask Mr. Hynard that question.
6 Is that what you meant?

7 MR. HYNARD: A. Yes, that would be my
8 interpretation also.

9 Q. In one of the photographs or slides
10 that we saw, the with some white birch remaining
11 standing and sparsely in the area, that would be a
12 residual area?

13 A. Yes, it would.

14 MR. MARTEL: Can I ask you then why you
15 go on to state "unmerchantable stands" in the same
16 sentence then?

17 MR. HYNARD: Well, there would be a
18 difference between residual Timber in a stand which was
19 cut and an unmerchantable stand in which no timber was
20 cut.

21 MR. MARTEL: That's the differentiation
22 you make. Thank you.

23 MR. TUER: Q. Mr. Hynard, the idea here
24 being to identify these areas in the timber management
25 plan, which was a five-year project, I understand that

1 practically speaking it is very difficult in the timber
2 management plan stage to identify those areas. Would
3 you agree with that?

4 MR. HYNARD: A. These training messages
5 are so new that I haven't even seen them.

6 Q. Mr. Oldford, have you any comment on
7 that?

8 MR. OLDFORD: A. Yes, I would agree that
9 when preparing a plan and laying out an area for
10 harvesting over five years it is difficult to identify
11 where the stand boundaries are between the allocated
12 and stands that one might leave to break up the cut.

13 Q. Would it be more practicable to
14 retain some flexibility in the identification of those
15 areas on a lesser time frame than a five-year TMP?

16 A. Well, I believe we have the
17 flexibility in the timber management planning process
18 and the principle that's being spoken to here that some
19 areas may have to be bypassed, maybe some merchantable
20 areas bypassed and then harvested at a later date maybe
21 in a subsequent timber management plan, is sound.

22 Q. Well, let me put it this way: Would
23 it be more realistic to have the statement read
24 something along these lines:

25 Areas of residuals and optimal areas of

1 unmerchantable stands should be identified so much as
2 it is practicable by the companies in the TMP?

3 A. I would agree with that.

4 Q. Thank you. And then on page No. 5
5 Loss of Wood Fiber, Mr. Oldford, the last sentence in
6 the heading Response reads:

7 "A significant portion of present loss
8 is largely the result of an unwillingness
9 to leave economically viable volumes
10 which would warrant a return cut."

11 Now, I suggest to you that the important
12 factor in what has been left is the age of the wood; is
13 it not? There would be not much point in leaving
14 mature or overmature wood for a return cut, if that's
15 wood going to blown down or falling down in the
16 meanwhile?

17 A. I would agree with you with one
18 qualification. One would have to look at the
19 particular stand where operations were being conducted
20 in. And I would agree that if, say for example, it was
21 a jack pine stand, 90 years of old age and was showing
22 some sign of deterioration, it wouldn't be practical at
23 all to leave a significant amount of that stand for a
24 10-year period if in fact that merchantable volume
25 would be loss, but...

1 Q. Sorry, go ahead.

2 A. If I could continue, sir. In many
3 cases there is an opportunity from the time the stands
4 are proposed for cutting to the time when the stand
5 would suffer a serious decline due to rot and matters
6 like that, there is very good opportunity to leave some
7 merchantable wood and come back at a later date.

8 Q. Yes. But dealing with the words:
9 "...the unwillingness to leave
10 economically viable volumes..."

11 Fairly can refer to wood which at the
12 time is mature or even overmature and very
13 merchantable, but on a reasonable assessment it's
14 probably not going to get around when you return?

15 A. That's correct.

16 Q. And that would be -- could that not
17 be an indication or a reason why companies are
18 sometimes unwilling - to use the word here - to leave
19 economically viable volumes?

20 A. I know of cases where that is a fact.

21 Q. All right. Let's skip ahead to page
22 7 for a moment which deals with the same topic. The
23 last paragraph, Mr. Oldford:

24 "Efforts should normally be made to defer
25 those stands or portions of stand which

1 have the greatest chance of remaining
2 intact and merchantable until the end
3 of the deferral period."

4 Now, that simply reflects exactly what
5 you were talking about a minute ago; does it not?

6 A. That is the linkage, that's correct.

7 Q. Thank you. Now, Dr. Euler, jumping
8 up on that same page to the paragraph headed:

9 " If late winter habitat...", and so
10 forth. See where I'm looking?

11 DR. EULER: A. Yes, I do.

12 Q. That paragraph uses words which to me
13 are judgmental or require the exercise of professional
14 judgment. Do you agree with that?

15 A. Yes, I do.

16 Q. So what we are talking about there is
17 really a generalization which could only be adequately
18 addressed in the field?

19 A. That's right.

20 Q. Words such as 'where late winter
21 habitat is inadequate', you stumble on the word
22 inadequate and that requires a professional judgment in
23 the field; does it not, as to whether in this
24 particular circumstance it covers adequate or
25 inadequate?

1 A. Yes.

2 Q. Thank you. And then, Dr. Euler, at
3 page 6 speaking of road funding and the Issue/Question
4 reads:

5 "Companies are requesting additional
6 roads funding to offset the added costs
7 of providing improved moose habitat."

8 In other words, we are upgrading what you
9 call the livingroom or the diningroom for the moose;
10 right?

11 A. Yes, in some cases, that's true,
12 where it is necessary to meet targets, yes.

13 Q. Well, I take it that this is not
14 intended to be critical of the position of industry
15 that it should not be required by itself at least to
16 shoulder the cost of improving moose habitat; is it?

17 A. No, it is not intended to be critical
18 of industry at all.

19 Q. It's is a reasonable request; is it
20 not?

21 A. Oh, I think so, sure.

22 Q. That if industry says that if you are
23 going to improve the habitat, therefore the moose
24 population, there is nothing wrong with us asking the
25 Ministry for assistance to build the roads?

1 A. Yeah, that's correct. We should
2 cooperate in the costs of this effort, certainly.

3 Q. Okay. Then look to page 8, Dr.
4 Euler, dealing with moose targets. Now, first of all
5 in the paragraph entitled: Issue/Question, it speaks
6 of effects of harvest control. Is that control of
7 hunters?

8 A. Yes.

9 Q. So the harvest you're speaking of is
10 the moose harvest?

11 A. Moose harvest by hunters, yes.

12 Q. All right. And similarly in the last
13 sentence on the page 'harvest controls', again control
14 of hunters?

15 A. Yes.

16 Q. Now, do the targets remain -- does
17 the target remain the same for moose, is that the
18 intention, a hundred and--

19 A. 160,000, yes. The intention is that
20 that provincial target would remain the same, barring
21 of course some new set of knowledge that we get in the
22 future. But, as of now, the target -- the overall
23 provincial target is intended to be the same.

24 Q. And that target, as I recollect our
25 discussion about the moose guidelines, is based on

1 existing habitat?

2 A. No, not really. No, not existing
3 habitat, no.

4 Q. I thought the guidelines - and I can
5 pull them out if you like - I thought the guidelines
6 said that that target could be reached on the existing
7 habitat.

8 A. No, the existing land base is the
9 thought. I think that is in my paper, in the appendix,
10 the paper I did with Dr. Thompson where we talked about
11 how the targets were developed and I would see that as
12 on page 20 in the left column, and we talked about how
13 much -- how many moose the land could support.

14 Q. Yes. Just let me get that. Yes,
15 that is what I was looking at or thinking of, the
16 last --

17 A. You are looking at that last sentence
18 there.

19 Q. The last sentence which is:
20 "Somewhat less than the present habitat
21 can probably be supported."

22 A. Mm-hmm.

23 Q. Am I not right?

24 A. Well, 160 is -- yes, and we meant
25 this in the general term of the potential of the land

1 to support moose.

2 Q. Okay. Well, just so that I don't
3 misunderstand and the Board doesn't misunderstand, is
4 it correct that the target of 160,000 population is
5 based on the present habitat?

6 A. No, no. And if you read that whole
7 paragraph, I think the intent is clear if you just
8 don't take one sentence out of it.

9 See, we say:

10 "Managers concluded that although this
11 might not be the maximum carrying
12 capacity, it did represent a reasonable
13 judgment as to the ability of the land to
14 support moose over the long term in the
15 presence of predators."

16 The goal was set at about 160,000 animals
17 which is double the '82 herd size but probably somewhat
18 less than the present habitat could support.

19 Q. So the present habitat could support
20 more than 160,000 animals; am I right?

21 A. The potential is there to support
22 more than 160 animals, yes. Yes, I think the potential
23 is there, if it were all managed to an ideal state of
24 moose habitat.

25 Q. Well, the words speak for themselves

1 I suppose, but just so that we don't get caught up in
2 semantics, on a conservative basis and allowing for
3 unexpected events, the present habitat can support more
4 than 160,000 animals?

5 A. Well, the intent was that to be -- to
6 discuss the potential of the land to support moose and,
7 yes, I think the potential is greater than 160,000. I
8 think if you read the entire paragraph that comes
9 through.

10 Q. That is the present habitat?

11 A. Well, I would like to use the word
12 potential, because I think that is the most accurate
13 word.

14 Q. Well, at the time you used present,
15 at the time you wrote that.

16 A. Well, we said the ability of the land
17 to support moose over the long term. That is the
18 concept that we tried to quote in that paragraph.

19 Q. All right. I think I've made my
20 point. Now, on page 14, Dr. Euler, is the problem here
21 the problem of determining the appropriate size of
22 concentration and cover area?

23 A. No, no, it's not the size issue, it's
24 a question of how to define them, how to define them,
25 delineate them and identify them.

1 Q. And that is up in the air, I take it,
2 from what is said on page 14?

3 A. Well, what the issue is, is that
4 various methods have been used to define them and this
5 is part of the problem we are trying to address is a
6 lack of a common understanding or a common approach to
7 defining and identifying moose winter areas.

8 Q. Well, I don't see anything on this
9 page which speaks of the various methods that are used,
10 so I take it that the common method -- or the
11 appropriate common method is right up in the air.
12 Still a matter of debate; is it?

13 A. No, I wouldn't put it in those terms.
14 I don't think that's a fair characterization.

15 Q. Well, wait a minute.

16 A. The problem is a difference of
17 methodology among the regional staff in how they define
18 and identify these areas.

19 Q. Well, wait a minute. Look at the
20 last sentence:

21 "The Northern Guidelines Coordinator,
22 with Wildlife Branch assistance, will
23 immediately define the methods to be
24 used."

25 A. That's right.

1 Q. I take it from that it hasn't been
2 defined yet. It speaks to the future not the present.

3 A. Well, that's right, and that is
4 because there is more than one method and there has
5 been inconsistency across the north in these methods.

6 Q. Yes, but look at --

7 MR. FREIDIN: Come on, Mr. Tuer. It says
8 various methods are used to define and identify these
9 areas.

10 MR. TUER: Excuse me, Mr. Freidin. We
11 were getting along just fine without you interrupting.

12 Q. Look, all I am suggesting to you is
13 that the common method that is going to be applied has
14 not yet been determined?

15 DR. EULER: A. That's correct, yes.

16 Q. That is the question I asked you in
17 the first place.

18 A. Well, when you talk about in the air,
19 totally --

20 Q. Well, it's up in the air because it
21 hasn't been defined.

22 A. Well, I don't use that term because I
23 think that is an unfair characterization. It hasn't
24 been defined yet.

25 THE CHAIRMAN: Okay. Gentlemen,

1 gentlemen. I think the Board is getting the point that
2 the Ministry is going to define this and is yet to do
3 so. So to that extent it's up in the air, but it
4 really doesn't matter what terminology, it just hasn't
5 been settled yet.

6 DR. EULER: Yes, that's correct, Mr.
7 Chairman. And, of course, this is a draft document and
8 we didn't intend to be cross-examined on each little
9 word that was put in this document. This will undergo
10 probably quite --

11 THE CHAIRMAN: Well, certainly you are
12 being cross-examined on what is in the document
13 realizing that it is a draft. We fully realize it's
14 not final.

15 DR. EULER: Sure.

16 MR. TUER: That has already been
17 established.

18 Q. Now, Dr. Allin, would you look at
19 page No. 3 of the other portion, Training Message -
20 Fish Guidelines.

21 DR. ALLIN: A. Yes, I have it.

22 Q. It's states there that with respect
23 to:

24 "The 30, 50, 70, 90 metre dimensions are
25 being generalized into 30, 60 and 90

1 metres."

2 Why is that happening, is it because of
3 the difficulty in getting information?

4 A. I don't think so. I think I
5 indicated in my direct evidence or lead evidence that
6 when we developed the Fish Habitat Guidelines and
7 indicated the size of or width of areas of concern to
8 be used in the general situation, we adapted the
9 results of other studies, and rather than specifying a
10 width of area of concern for every per cent of slope or
11 every degree of slope, we tried to simplify things by
12 grouping slopes into four categories and establishing a
13 width of area of concern for each.

14 Apparently a number of districts would
15 like to have that made even simpler and prefer to use
16 three categories of slope rather than four, and I
17 really think that is the basis for it. I think it's --
18 the question of the availability of information does
19 not come into that particular --

20 Q. Well, let me put it this way: The
21 amount of work involved is less when you have three
22 categories than when you have four categories?

23 A. I don't really think it is.

24 Q. Okay. And is this something that has
25 been engaged in by various district managers, some of

1 them using three, some of them using four?

2 A. I believe that is the case.

3 Q. And the response that is written here
4 indicates that if you are going to use three, then you
5 again must take the more conservative approach?

6 A. That's correct.

7 Q. But there is no prohibition against
8 reducing to three categories rather than four?

9 A. That's correct.

10 Q. Going down a bit further, when it
11 speaks in the last -- when this statement speaks in the
12 last sentence of:

13 "Furthermore it is an unnecessary loss of
14 wood (waste) unless justified on the
15 basis of some other AOC values."

16 Is that an indication that there is an
17 intention to treat wood that can be removed as part of
18 the depletion?

19 A. I am sorry, I can't answer that.

20 Q. Not so far as you are aware?

21 A. I am not sure. I just can't give you
22 an answer on that, I don't know what the intent is.

23 Q. I see. All right. And these are
24 the Fish Guidelines, of course, and on page 4, Dr.
25 Allin, in the Response statement:

1 "This provision does not apply adjacent
2 to critical fish habitat (reserves).
3 Otherwise the return period will be when
4 2 metres of vegetation is established and
5 soils have been stabilized."

6 Is 2 metres an arbitrary figure?

7 A. It is fairly arbitrary. I believe it
8 reflects the opinion of quite a few people who were
9 consulted on this matter that vegetation of about that
10 height, I would say one to two metres, would be
11 sufficient to stabilize the site which is really what
12 we are after.

13 Q. The purpose of stabilization?

14 A. That's right.

15 Q. Yes, so it could be variable?

16 A. That's right.

17 Q. Again, its judgmental, up to the
18 biologist in the field?

19 A. I think it would be a matter of
20 consultation between foresters and biologists.

21 Q. All right. But again, being
22 judgmental depending upon the circumstances at the
23 site?

24 A. Yes.

25 Q. Thank you. Then, on page 6 are you

1 familiar with this proposal?

2 A. Yes, I am.

3 Q. Could you show us on a flip chart
4 what is an example of what is intended here?

5 A. Yes, I believe I could.

6 Q. Would that be the fastest way to
7 explain it?

8 A. Yes. Were you referring to any
9 specific paragraph in that Response?

10 Q. Well, in determining an example of
11 the definition of headwater.

12 A. Yes.

13 Q. It speaks for example:

14 "For each inflow to this lake, the
15 headwater area starts at the inlet to the
16 lake and continues until one of the
17 following situations occurs:", and so on
18 and so forth. Could you just give us an example of how
19 this is intended to work?

20 A. Yes, I believe I can do that.

21 Q. That might be helpful.

22 A. I will try to give you two examples
23 here. This is a situation in which we have a lake to
24 which we would apply the Fish Habitat Guidelines and
25 the waters to which the guidelines apply are defined in

1 the fisheries policy, as I've indicated earlier.

2 If we assume that this is a lake larger
3 than ten hectares, and that is basically the cut off
4 size that has been established for application of the
5 fish guidelines, then this is the value that we are
6 particularly interested in protecting. And I guess I
7 should indicate that there may be another system down
8 here of additional lakes and so on and there could be a
9 whole chain.

10 What the response is indicating is that
11 you go to the lake highest up in the watershed which
12 qualifies for protection under the guidelines. So in
13 that case, this is this lake that is larger than ten
14 hectares.

15 The Response further indicates that for
16 each inflow to this lake the headwater area starts at
17 the inlet to the lake. So it starts here and it
18 continues until one of the following situations occurs:
19 Either the top of the stream -- and I will just draw a
20 stream system in here. So in that case, what is being
21 proposed is that the reserve -- in this particular
22 situation, it would apply to this lake of course
23 because that is being protected.

24 Q. And you have outlined the reserve in
25 red, have you?

1 A. That's right.

2 Q. A broken red line.

3 A. But that that reserve would extend
4 up, in the case of the stream, to the top of the stream
5 in that fashion.

6 But in the case of this other inlet that
7 leads up to a small lake or a pond or wetland, then the
8 idea is that the reserve would continue to the inflow
9 of this smaller lake; in other words, the reserve in
10 this case would go up around like that, but it would
11 not extend up to lakes or streams farther up in the
12 system. That is the intent of trying to further refine
13 the definition of a headwater area.

14 The concept here or the principle
15 involved is that this small lake for which there is no
16 particular value that we want to protect would act as a
17 retention basin to retain sediment or nutrients that
18 might be generated as a result of operations upstream
19 or from natural causes and, therefore, protect that
20 material, sediment or nutrients, from entering the
21 lakes whose values we are concerned about. That is the
22 principle involved.

23 Q. I understand now. That lake of less
24 than ten--

25 A. Ten hectares.

1 Q. --hectares might be a beaver pond?

2 A. It could be, yes.

3 Q. It might be a muskeg swamp?

4 A. Yes, it could be.

5 Q. I suppose there is not too much
6 difficulty in defining the boundaries of a beaver pond,
7 but there might be a lot of judgment involved in
8 defining the boundaries of what is described here as a
9 wetland; might there not?

10 A. Yes, that is going to require some
11 judgment. It depends not only on the size of the
12 wetlands and, therefore, its retention capacity in
13 terms of absorbing nutrients and sediment, it also
14 depends on whether there is a permanent drainage
15 channel through the wetland.

16 For example, you can have a marsh with
17 open water that would probably not provide much
18 retention capacity; on the hand you could have a bog
19 that would provide significant retention capacity.

20 So it also depends on the type of
21 wetlands, to some extent, and it is going to require I
22 think some judgment on site and I think it is also a
23 matter that we will want to discuss a little further
24 with Ministry of the Environment who made this
25 individual proposal.

1 Q. All right. Did you say there was
2 another example you wanted to use.

3 A. Yes, that refers to the last
4 paragraph in the Response which I will again outline
5 here.

6 Q. This diagram, for the record, you are
7 putting on that board on the lower right-hand side of
8 the page.

9 A. This is a situation which frankly we
10 had not foreseen as a difficulty when we developed the
11 fisheries policy and guidelines. But again, a closer
12 look at on-the-ground situations did raise a number of
13 these questions.

14 The beaver pond example that you just
15 indicated is one case of that. This is another case in
16 which, again, you have a lake greater than ten hectares
17 to which the fish guidelines would apply; in other
18 words, there is a value there that we wish to protect,
19 there is an inflowing stream that has a large degree of
20 branching, a large number of tributaries - could be
21 very small tributaries - that flow into this stream.

22 Again, the question arises here: What
23 constitutes the headwater area. . In this particular
24 case there is no retention basin, there is no beaver
25 pond, there is no wetland or small lake between these

1 branching streams and the larger lake.

2 The question I guess has arisen from --
3 it was raised by a number of people in the Ministry:
4 Well, if this -- and there are a number -- there are
5 some options here I guess, but if we use the same
6 principle as in this other example, that you have to
7 have a retention basin between the lake you are going
8 to protect and upstream activities, then in this
9 particular case - and again I will indicate the reserve
10 in red - one option obviously is to extend the reserve
11 up around the whole area, because it would not be
12 feasible in this situation to have a reserve.

13 Inbetween some of these small tributaries
14 there would just be no point, it wouldn't be feasible
15 to operate in that manner in terms of timber
16 harvesting. So that is one example of how the
17 headwater area could be defined.

18 The concern has been raised, however,
19 that in a case like this, with a lot of very small
20 tributaries, there could be a lot of wood that would be
21 tied up in this reserve because you would not be able
22 to harvest the entire area. So there is a concern
23 there about operations and excluding operations from
24 large areas.

25 We don't know how large a problem this is

1 at the moment because we don't know how commonly this
2 scenario exists on the ground. Some of our people are
3 presently looking at maps trying to determine how
4 frequently this would occur.

5 If it doesn't occur all that often, then
6 it may not be a problem. If it does occur fairly
7 often, I think the intent is to explore other
8 possibilities or the possibility of allowing some
9 harvest to occur, but always protecting water quality
10 and certainly protection of water quality would be the
11 primary concern, but we would want to explore other
12 possibilities for doing it other than applying a
13 reserve on the whole area.

14 Q. If I may be so bold as to suggest
15 then the solution to that problem is still up in the
16 air?

17 A. Yes, it is.

18 MR. TUER: Excuse me just a moment.

19 THE CHAIRMAN: Do you want to mark that
20 Exhibit 504, please.

21 ---EXHIBIT NO. 504: Hand-drawn sketch by Dr. Allin
22 explaining headwater areas.

23 MR. TUER: Can we give that a title, Mr.
24 Chairman.

25 THE CHAIRMAN: I have a sketch by Dr.

1 Allin explaining headwater areas.

2 MR. TUER: Q. And just carrying on from
3 that explanation, Dr. Allin, is one of the problems in
4 your second example, the fact that some of these water
5 crossings don't have a permanent channel as indicated
6 in the statement itself?

7 DR. ALLIN: A. Well, the fish guidelines
8 do not apply to the femoral streams or to intermittent
9 streams and that is indicated in the fisheries policy
10 that governs the use of the guidelines.

11 Q. Yes, but...

12 A. So in that case a reserve would not
13 apply around the femoral stream.

14 Q. But it speaks here on page 6 in
15 towards the bottom:

16 "Generally, significant retention
17 capacity refers to wetlands without
18 permanent channels."

19 Is that one of the difficulties?

20 A. That is a reference to the point I
21 made earlier about the type of wetland involved.

22 Q. Where the judgment has to be
23 exercised by the biologist?

24 A. That's right, whether there is a
25 permanent channel through the wetland and whether in

1 fact the wetland would have any significant retention
2 capacity.

3 Q. All right. But dealing again with
4 your second example, the concern here is that because
5 of a great many small streams or ponds or wet areas
6 there might unnecessarily be a lot of good timber
7 unnecessarily tied up?

8 A. Yes, there is a concern that there
9 could be a significant amount of timber tied up, but at
10 the same time there is a question of whether water
11 quality can be protected in other ways than a reserve
12 around everything.

13 Q. All right. So what is the message
14 that's going out to the field?

15 A. The message is I believe that the
16 question is still up in the air.

17 Q. All right. Page 10, am I correct,
18 that your last answer using the chart has explained
19 what is intended to be directed on this page?

20 A. Yes, that's right.

21 Q. Thank you very much, Dr. Allin.

22 MR. HYNARD: Q. Mr. Tuer, you had a
23 question of Dr. Allin earlier that: Would the doughnut
24 count as a depletion, and I believe I can answer your
25 question.

1 Q. Yes.

2 A. And the answer is: Yes, it would, it
3 would count no matter how that doughnut was determined
4 and how large it was, whatever area was there allocated
5 for harvest, but a modified -- if a prescription for a
6 reserve was placed on it and it was no longer available
7 for harvest, it would nonetheless count as a depletion.

8 MR. TUER: Excuse me.

9 MR. HYNARD: Mr. Chairman, we are
10 referring to depletions in the timber management plan
11 against the maximum allowable depletion.

12 MR. TUER: Thank you very much, Mr.
13 Hynard.

14 THE CHAIRMAN: Thank you, Mr. Tuer.

15 Ladies and gentlemen, I think we will
16 take the morning break at this point and we will be
17 able to come back and start in with Mr. Edwards.

18 We will break for 15 minutes. Thank you.

19 ---Recess taken at 10:35 a.m.

20 ---Upon resuming at 11:05 a.m.

21 THE CHAIRMAN: Thank you. Be seated,
22 please.

23 Ms. Swenarchuk?

24 MS. SWENARCHUK: Yes. Mr. Chairman, with
25 respect to what transpired in my absence earlier this

1 morning, I have spoken about this with Mr. Freidin and
2 he agrees. I would like to look at the transcript,
3 which presumably will be available next week, and then
4 perhaps cross-examine Mr. Greenwood further on that at
5 that point.

6 I understand as well Mr. Hynard has some
7 comments to make and a paper to present which may
8 necessitate the same with him. It may be a paper that
9 has to go to our experts for review.

10 THE CHAIRMAN: Very well.

11 MR. HYNARD: No paper. Would you like me
12 to answer that question for Ms. Swenarchuk from
13 yesterday?

14 THE CHAIRMAN: We might as well tidy that
15 up, particularly if you don't have a paper.

16 MS. SWENARCHUK: What question are we
17 talking about?

18 MR. HYNARD: It was the question that you
19 asked me yesterday on the amount of area that is
20 clearcut and regenerated by natural methods. You asked
21 if I could produce that number for you.

22 MS. SWENARCHUK: Right, fine.

23 MR. HYNARD: Now, this is similar to a
24 question -- to an interrogatory from Forests For
25 Tomorrow in Panel 11, Question No. 8, it is similar to

1 that question but not identical.

2 However, the answer to that interrogatory
3 is the best approximation that I can give you on short
4 notice to your answer from yesterday. But given your
5 interest in that subject - and I am sure the Board's
6 interest in that subject too - I will try to expand on
7 that information in evidence-in-chief in Panel 11.

8 THE CHAIRMAN: Thank you.

9 DR. EULER: Mr. Chairman, I too have one
10 question. Do you want to do this housekeeping matter
11 now too, or...

12 THE CHAIRMAN: An answer to a question
13 that you were asked?

14 DR. EULER: Yes, an answer to a question.

15 THE CHAIRMAN: All right. We might as
16 well take care of that as well.

17 DR. EULER: Ms. Swenarchuk asked me what
18 categories of reserves were in existence other than
19 fish, wildlife and plants and I went through the
20 documentation and have those categories.

21 MR. FREIDIN: That was in relation to the
22 chart which was attached I think as part of
23 Interrogatory No. 27 from Forests for Tomorrow.

24 DR. EULER: Right.

25 MS. SWENARCHUK: Can I just clarify, Dr.

1 Euler. My question was: What other types of reserves
2 are included in that other figure in the chart, not
3 simply what types of reserves exist. So that's what
4 you are answering.

5 DR. EULER: Yes, that's right. I went
6 back through the responses and I have those and I can
7 list them.

8 Okay. The first one is railroad, the
9 second is dump sites, third is highway, fourth is
10 pipeline, five is aesthetics, six is recreation, seven
11 is cottaging, eight is tourism, nine is canoe route,
12 and ten is public access.

13 MS. SWENARCHUK: Thank you.

14 THE CHAIRMAN: Before I call Mr. Edwards,
15 anybody else?

16 You are on, Mr. Edwards.

17 MR. EDWARDS: Thank you, Mr. Chairman.

18 Mr. Chairman, at some stage in my
19 cross-examination I will be making reference to a map
20 which shows some of the boundaries between the Wawa and
21 Hearst Districts. Oba Lake which has been talked about
22 in evidence is near that boundary.

23 The best map that appears to have been
24 entered so far is Exhibit 11 and it's pretty small and
25 one has to examine it at close range. If we could come

1 up with something better in the course of the day or
2 the morning, I will endeavour to do so.

3 But I have asked my friend Ms. Blastorah
4 about that and she seems to believe - and I think she
5 is right - that nothing better than that has been
6 filed. So we may end up having to pass that around to
7 the Board, and I apologize in advance for that, but
8 that's the best we seem to have.

9 Mr. Chairman, most of my questions will
10 relate to the Tourism Guidelines with some questions
11 relating to the Oba Lake evidence, and then I will be
12 referring to the exhibit -- whatever the number of that
13 hand-drawn exhibit is there, perhaps the panel can
14 assist me with a number.

15 MR. GREENWOOD: It seems to be 468.

16 MR. EDWARDS: 468. I will be referring
17 to the Tourism Guidelines which are Exhibit 379 and I
18 believe those will be the exhibits that I will make
19 primary reference to.

20 Exhibits 466 and 469 contain some
21 overheads, or at least the paper versions of the
22 overheads which were filed, and I will be referring to
23 them rather than asking the panel to put the overheads
24 back up.

25 CROSS-EXAMINATION BY MR. EDWARDS:

1 Q. Mr. Clark, I believe in your
2 testimony you gave a description of the development of
3 the Tourism Guidelines.

4 Sir, when the tourism value guidelines
5 were being developed they were referred to initially as
6 scenic value guidelines. When did the change of name
7 occur and how did that come about?

8 MR. CLARK: A. I, of course, was not
9 directly involved in that process, but I did discuss
10 that particular issue with Mr. Pyzer who led evidence
11 earlier in these proceedings, and he indicated that the
12 original request came in as scenic guidelines but in
13 discussing the notion of what was needed in the various
14 workshops that were held, the idea evolved that they
15 were really talking about more than just the
16 maintenance of scenic resources, but -- and they were
17 talking in more broad terms about scenic resources or
18 aesthetics resources, but also a variety of other
19 tourism values.

20 And I think it was as a result of that
21 particular process and that change in thinking that the
22 change in terminology occurred.

23 Q. Who made the change?

24 A. I assume that it was made by --
25 through the workshop process and was ultimately

1 approved by the steering committee.

2 Q. Is it your evidence, sir, that NOTOA
3 approved of those guidelines?

4 A. Well, I am not sure what we mean by
5 approval here. NOTOA had two representatives on the
6 steering committee, the President of NOTOA, Rod Munford
7 at the time, and their Executive Director, Bob
8 McKercher were both members of the steering committee.

9 And it's certainly my understanding that
10 as a result of the process of developing workshops and
11 reviewing the material at a number of these sessions
12 that the steering committee reached consensus that the
13 final product was acceptable.

14 Q. Your understanding is that the
15 steering committee reached consensus?

16 A. I believe so.

17 Q. When the guidelines were presented to
18 the industry - I am not just talking about the tourist
19 industry, but to industry generally - they were
20 essentially complete at that time; were they not?

21 A. Well, they were -- I would have to go
22 back to my specific evidence, but they were presented
23 to -- let's see, there were two sets of workshops.

24 There were an initial set in April/May of
25 1985 which were held in North Bay, Sault Ste. Marie,

1 Timmins and Dryden and they were sessions where the
2 workshop participants were involved in issue
3 identification and presumably identifying the kind of
4 content that they thought should be found in the
5 guidelines.

6 In the subsequent workshops that were
7 held in the same centres, there was a review of the
8 draft tourism guidelines at that time, so -- and then
9 subsequent to that the guidelines were also presented
10 at the NOTOA Convention in draft form and there was a
11 panel discussion at the NOTOA Convention and additional
12 input was received at that time.

13 Q. Additional input was received, but
14 was any change in substance made?

15 A. I don't think there were substantial
16 changes made.

17 Q. Would you agree with me, sir, that
18 even as they read today the primary focus is on the
19 protection of scenic value?

20 A. There is a strong emphasis, but I
21 wouldn't want to underestimate the wide scope of the
22 guidelines because, from my experience, they do speak
23 to more than strictly scenic values.

24 Q. Sir, where, if anywhere, is a
25 guarantee that the timber manager will take the

1 concerns of tourism and tourist outfitter -- tourism
2 values into account when preparing any 20-year
3 management plan?

4 A. Well, I think there is a section at
5 the beginning which I reviewed when I last presented
6 this evidence that talks about process, and it doesn't
7 go into a great deal of detail but it does identify the
8 primary actors who are involved in decision-making and
9 it emphasizes the need for collaboration, and also
10 emphasizes the responsibility that rests with both the
11 tourism industry and the forest industry in reaching
12 agreement on these particular reserves or
13 prescriptions.

14 I would also point out that the real and
15 more detailed direction for dealing with these areas of
16 concern is contained in the timber management planning
17 process which is highlighted in the Class Environmental
18 Assessment, and I would refer more specifically to
19 Appendix 1.

20 Q. Appendix 1 of...?

21 A. The Class Environmental Assessment
22 for Timber Management.

23 THE CHAIRMAN: It's Exhibit 4.

24 MR. EDWARDS: Mr. Chairman, I don't have
25 my copy of Exhibit 4 here. I am wondering if I might

1 have a minute to see if I can get one.

2 MR. CLARK: One other point I would make
3 is that I think it's made very clear in the guidelines
4 here that the use of the guidelines is mandatory.

5 MR. EDWARDS: If I could just have a
6 minute, please, Mr. Chairman.

7 THE CHAIRMAN: Very well.

8 MR. TUER: Here. (handed)

9 MR. EDWARDS: Thanks.

10 Q. Sir, I will go back to my question:
11 Is there a guarantee anywhere in the 20-year plan where
12 the concerns of tourism are going to be addressed; if
13 so, would you point it out to me.

14 MR. CLARK: A. Well, I think there is a
15 pretty sure guarantee and the guarantee is the process.
16 And the process of timber management planning provides
17 opportunities at four stages for the industry or
18 members of the tourism industry to get involved, and at
19 the earliest stages to provide information on values
20 that are of concern to them in their particular
21 operations.

22 And the process allows for the
23 identification of values, the identification of
24 alternatives for protecting or, in some cases,
25 enhancing those values, and provides for the

1 identification of alternatives, documentation.

2 And so that I think to the extent that
3 those values are identified, there is ample opportunity
4 in the planning process to consider them.

5 Q. Can you point it out to me, sir,
6 anywhere?

7 A. Well, there is two references I would
8 make. First of all, in the Tourism Guidelines
9 themselves there is a number of figures and Figure 2,
10 for example - and I am reading directly from the text:

11 "Provides further details on the
12 mandatory process by which operational
13 decisions will be made under the
14 environmental assessment. Three
15 important aspects of the process should
16 be emphasized: The existence of
17 important general provisions for
18 environmental protection that apply..."

19 Q. If I might interrupt you, sir, where
20 are you reading from, please?

21 A. Page 9 of the Guidelines.

22 Q. Is that Exhibit 379. Yes, thank you.
23 Go ahead.

24 A. Well -- so what I am really doing
25 here is pointing out that there is a certain amount of

1 information actually in all three diagrams on pages 10,
2 11 and 12 which I spoke to in my evidence that identify
3 how tourist operators can get involved in a process,
4 identify their concerns and have them considered.

5 The other reference I made was
6 specifically to sections of the timber management --
7 the Class Environmental Assessment for Timber
8 Management, and one reference I made was to -- on page
9 156 that deals with the points in the planning process
10 at which formal opportunities are provided for public
11 consultation and, of course, this applies for tourist
12 operators. That's page 156.

13 Q. What line are you referring to there,
14 sir?

15 A. Well, I would start at line 1 and run
16 through to about line 17 on page 156. And the last
17 reference I made earlier, the specific reference was to
18 Appendix 1 of the Class Environmental Assessment which
19 is on page -- it's Appendix 1 of the Class
20 Environmental Assessment, 203.

21 Q. Thank you, sir. Are those all the
22 documents that you rely on for that testimony, sir, or
23 are there any others?

24 A. Well, I would speak more generally to
25 the planning -- timber management planning process

1 that's outlined in this document.

2 But to the extent that tourism values are
3 identified as values and put on a values map, they
4 would then be considered through the area of concern --
5 comprehensive area of concern planning process.

6 I should also add that Appendix 2 also
7 applies, and that deals specifically with planning for
8 areas of concern as it relates to access.

9 Q. Sir, if you could refer to page 11 of
10 Exhibit 379, the Timber Management Guidelines for the
11 Protection of Tourism Values, that's the page which
12 contains Figure 2.

13 A. Correct.

14 Q. This is a page which sets out a
15 guarantee that the tourism concerns will be addressed
16 in the 20-year plan.

17 A. It's one of a number of diagrams that
18 speaks to the process by which tourism values can be
19 considered.

20 Q. Sir, would you agree with me that,
21 reading the chart from top down, that essentially what
22 you are into immediately is selecting areas of
23 operations for the 5-year operating period and the
24 identification of specific areas of concern before we
25 even get to the word tourism?

1 A. Well, I don't think you should rely
2 entirely on this particular diagram.

3 Q. Well, which one should we rely on,
4 sir?

5 A. Well, I think, as I pointed out,
6 there is three diagrams here that deal with the
7 planning process, and I think also I pointed out that
8 there were other sections in the Class Environmental
9 Assessment that provide more detail on the process.

10 Q. If I could stop you there, sir. But
11 can we agree, you and I agree, that Figure 2 on page 11
12 is not the document which contains the guarantee, if
13 there is one?

14 A. It's certainly not the only document.
15 And I guess there is one point I would like to make
16 here, you insist on using the word guarantee, and I am
17 not sure that I understand exactly what you mean by
18 that.

19 I think the point I am making here is
20 that the process allows for the consideration of
21 tourism values. There is no guarantee in any process,
22 it depends on whether the parties that are involved in
23 the decision bring their concerns to bear at the
24 outset.

25 Q. Ought not there to be a guarantee

1 that those concerns will be taken into account, sir?

2 A. Well, we make -- my answer to that
3 would simply be, we make every effort in the planning
4 process to make ensure that those concerns are taken
5 into consideration.

6 Q. You will agree with me then, sir;
7 will you, that Figure 2 on page 11 doesn't start
8 dealing with tourism concerns until you are very
9 specific -- you are down to specific areas of concern
10 in the 5-year operating plan?

11 A. Well, I think the point I made about
12 that particular diagram was that the area outlined more
13 darkly which includes moose, fish, tourism and other
14 guides, was the primary message that we were trying to
15 get at -- or that the guidelines were trying to get
16 across there.

17 In other words, when you get to the point
18 where you are dealing with tourism values, there is a
19 variety of tools that you can use, moose, fish, tourism
20 and other implementation manuals. That was the primary
21 message I think inherent in that particular diagram.

22 Q. If I could interrupt you there, sir.
23 But when you get to the point when you were considering
24 tourism values is when decisions on operations are
25 being made in the specific areas of concern in the

1 5-year operating period?

2 A. Well, it's not quite that simple. If
3 you go back to the planning -- the timber management
4 planning process -- I think it's important that you
5 understand this.

6 There is two elements here that I want to
7 emphasize. You start dealing with tourism issues
8 almost -- well, essentially at day one when you send
9 out a request -- an invitation to participate at the
10 outset of timber management planning process and you
11 send out a request normally to all people that you
12 would deal with in timber management asking --
13 explaining that you are going to be involved in the
14 timber management planning process and you are asking
15 them to provide input.

16 So at that point you are asking them to
17 provide their concerns.

18 Q. If I could stop you at that point,
19 sir.

20 Will you agree with me that at that point
21 you are dealing with an in-house process with a
22 committee of MNR people and a committee of forest
23 industry people; correct?

24 A. Well, what you are dealing with is a
25 planning team. A request goes out, an invitation to

1 participate and that results hopefully in a
2 consolidation of a significant amount of background
3 information on values that relate to a whole host of
4 stakeholder groups.

5 And I think, as has been pointed out
6 earlier, that results in the development of a values
7 map where all the values that are identified, either as
8 a result of the knowledge of MNR employees or company
9 officials or as a result of input, for example, from
10 tourist values are put on a values map.

11 That leads to -- ultimately to the
12 identification of preliminary areas of concern and you
13 will notice on the --

14 Q. If I could stop you at that point,
15 sir, where you identify preliminary areas of concern.
16 Will you agree with me, sir, that it has been an
17 in-house process to that stage--

18 A. That's right, absolutely.

19 Q. --invitations to members of the
20 public to comment?

21 A. We ask them to provide input, we
22 consolidate that input, we put it on a values map.
23 When we hold the next segment in -- and that in a sense
24 is in-house, although I should point out from my
25 experience, that I was often dealing directly with

1 tourist operators on an on-going basis, there wasn't a
2 great deal of remoteness, if you want, in our
3 relationship.

4 The next step in that process is we hold
5 that information centre where the public, tourist
6 operators included, have an opportunity to review
7 preliminary proposals and at that information centre
8 the background information concerning the values that
9 have been identified is identified on a values map. So
10 that is very public forum, if you want.

11 Q. Sir, what is so wrong with respect to
12 Figure 2 of shifting the concern for tourism, fish and
13 moose and other values up to the initial stage of the
14 20-year plan.

15 A. Well, I think I pointed out, I think
16 to an extent they are dealt with there.

17 First of all, at the very early stage we
18 ask for that input and if will you notice on that
19 diagram it says:

20 "Timber Management Plan, 20-year Planning
21 Period: review preliminary areas of
22 concern."

23 So it is saying right at the outset,
24 those values that ultimately may become areas of
25 concern are identified at the early stage.

1 Q. Sir, the predominant concern of the
2 tourist industry is, of course, access; you know that?

3 A. That's right.

4 Q. And the input of the tourist industry
5 or of tourism concerns as represented perhaps by the
6 Ministry of Tourism and Recreation even, is going to be
7 gained after the preliminary areas of concern have been
8 identified by MNR and the forest industry; is that
9 correct?

10 A. Could you repeat that last -- the
11 last part, I was just looking through here.

12 Q. The concerns of tourism -- of the
13 tourist, tourism business as well, will only be
14 addressed after the preliminary areas of concern have
15 been sketched out by the MNR; correct?

16 A. That's correct.

17 Q. Is there anything wrong with
18 considering that the interests of that forest industry
19 that is comprised of tourism should be considered at an
20 earlier stage in the 20-year planning process in a
21 formal way?

22 A. I don't think we could do it much
23 earlier than this. If I can refer you to page 109 of
24 the timber management -- of the Class Environmental
25 Assessment --

1 Q. Yes.

2 A. If you look at that, Step 1 is the
3 assembly and analysis of background information and
4 part of that background information is information that
5 is requested directly from stakeholders and that
6 relates to the invitation to participate, and at that
7 stage we seek information.

8 And if you -- and then there is Step 2
9 which is the determination of management direction for
10 the management unit at a fairly general level. And
11 then right in Step 3 we have identification of
12 potential areas of operations for the 20-year period of
13 the timber management plan. And then if you look at
14 point 2 under that section it says:

15 "Identification of preliminary areas of
16 concern."

17 So very, very early on in the process we
18 have sought input, mapped them in terms of a values
19 map, and I would like to read to you just -- and
20 then -- so, as I say, I don't think we can do it much
21 more early and I would like to read to you just briefly
22 from page 132 of the Guidelines -- of the Class
23 Environmental Assessment.

24 And just so you understand what happens
25 here:

1 "Preliminary areas of concern are
2 identified within either the:

3 1) The entire area eligible for
4 operations during the 20-year period of
5 timber management plan; or,
6 2) The projected operating area for the
7 20 year-period using the inventory
8 information assembled and analysed and
9 summarized in the form of a values map in
10 Step 1 of the planning process. As part
11 of the identification of preliminary
12 areas of concern, an accompanying
13 description of resource features, land
14 uses and values which require protection
15 in each area are also produced."

16 Q. And that is all done by the MNR?

17 A. It is done by the planning team. So
18 that it's accompanying -- for example, if it's an FMA
19 it would be done by a planning team which would have
20 representation from MNR.

21 And I should also point out I think --

22 Q. Representation from the MNR and from
23 the forest management agreement holder?

24 A. That's right. And also the majority,
25 if not all, of the planning teams, at least where it is

1 appropriate MTR, Ministry of Tourism and Recreation, is
2 also a member.

3 Q. Sir, how are disagreements between
4 the industries mediated. If there is a disagreement
5 between -- at some stage tourism concerns are taken
6 into account and there is a disagreement about access
7 or location of roads or the general area of location of
8 roads, who makes that decision?

9 A. Well, I don't mean to keep going back
10 to the Class Environmental Assessment, but I would
11 refer you to both Appendix 1 and 2 which identify the
12 process.

13 Q. Perhaps I will ask it more directly.
14 Does the MNR make that decision?

15 A. The MNR ultimately approves timber
16 management plans. To the extent that that is the case,
17 they obviously take a real interest in these kinds of
18 decisions.

19 Q. Does the MNR make the decision?

20 A. They approve the plans. So in that
21 sense they ultimately make the decision.

22 Q. Sir, you will agree with me on page
23 12 of Exhibit 379, again somebody was going to there
24 book for guidance as to when a tourism concerns ought
25 to be -- must be looked at. Again, that is talking

1 about the 5-year operating plan; correct, that whole
2 diagram is about the 5-year operating plan?

3 A. That document I described as
4 essentially about who is involved in the decision.
5 There is not as much emphasis there on when.

6 Q. But the areas of concern that they
7 are talking about are specific areas of concern .
8 identified in the 5-year operating plan?

9 A. Well, there is no doubt about, you
10 have to get fairly well into the planning process
11 before the details are sufficiently clear that you can
12 look at alternatives and come up with appropriate
13 prescriptions.

14 Q. But that particular page, sir, is
15 talking about the 5-year plan in specific areas of
16 concern, it is not talking about preliminary areas of
17 concern; is it?

18 A. The emphasis there, I would say, is
19 on the 5-year.

20 Q. Well, it's not the emphasis, sir, it
21 is the only thing. Is there any reference to the
22 20-year plan on that page?

23 A. No.

24 Q. Thank you. If you go back to page
25 10, again the title I think should be self-evident,

1 that Step 2 after the selection of areas for operations
2 in the 5-year plan is identification of specific areas
3 of concern and the associated resource values that
4 require protection.

5 You will agree with me there, sir, that
6 that page again is dealing with the 5-year plan, not
7 with the 20-year plan?

8 A. I think so, yes.

9 Q. Sir, what is there in writing to
10 prevent the Ministry from simply consulting with the
11 forest industry before making its own decisions with
12 respect to preliminary areas of concern in the 20-year
13 plan? When I am talking about the industry, I am
14 talking about the forest -- the timber industry.

15 A. Could you just repeat that question,
16 I am not sure I understand.

17 Q. What is there in writing that
18 prevents the MNR from simply consulting with the timber
19 industry when making its own decision about the
20 identification of preliminary areas of concern?

21 A. Well, there is the Class
22 Environmental Assessment here and it speaks
23 specifically to the kind of notice that will be given
24 and the requirements inherent in those notices.

25 Q. And that is all?

1 A. Well, it is fairly clear here. It
2 says:

3 "Public notice will include a map of the
4 management unit for the timber management
5 plan, summary of the schedule of the
6 planning process outlining the subject
7 matters to be covered..." nd so on. And
8 the direction in the Class Environmental Assessment is
9 quite specific and this is written in response to the
10 requirements of the Environmental Assessment Act. So
11 it is a commitment on our part to honour that process.

12 MR. GREENWOOD: A. Mr. Edwards, in your
13 question you seem to be unaware of the full meaning of
14 the invitation to participate which takes place prior
15 to the management planning process even beginning.

16 Mr. Clark on page 155 of the EA Document,
17 mentioned some of the public review process. You will
18 notice that the very first step in terms of review at
19 the top of the page is a public notice. On the
20 left-hand side are the words 'invitation to
21 participate', and that isn't to review, that is
22 invitation to participate.

23 The next step in the centre line under
24 Schedule is 'public response due', and you will notice
25 on the right-hand side the words 'application of timber

1 management planning process'.

2 That is when the process begins in terms
3 of doing the actual plan writing, but prior to that,
4 invitation to participate has been sent out, and if you
5 go to page 157, you will notice half-way down the page
6 starting at line 14:

7 "The public notice will invite interested
8 participants to offer comments on any
9 aspect of the upcoming plan and will
10 specifically direct their attention to
11 providing additional background
12 information on the management unit,
13 identifying areas which contain resource
14 features, land uses or values that might
15 be affected by timber management
16 operations, and stating issues or
17 concerns which need to be addressed
18 during the planning process."

19 It is only after this step has taken
20 place, this invitation to participate, that the
21 planning process, the actual plan writing then begins
22 and it would be when that concern is addressed that the
23 first thoughts about areas of concern or values would
24 start to take place in the planning process.

25 Q. Well, I am deeply grateful that you

1 pointed that out. But, sir, may I suggest to you --

2 THE CHAIRMAN: What page is that, Mr.
3 Greenwood?

4 MR. GREENWOOD: The flow chart of Timber
5 Management Plan Production Review and Approval is on
6 page 155 of Exhibit 4, the EA Document and the first
7 step, 'public notice' which is also called Invitation
8 to participate' is described starting half-way down 156
9 and the section that I read starts at line 14 on page
10 157 which gives the description of what is -- what type
11 of information we might expect to receive from
12 interested participants.

13 MR. EDWARDS: Q. Sir, you have the
14 formal recognition of one industry in the preparation
15 of the plan; that is to say, the timber industry is
16 formally part of the process - no surprise there.

17 What is wrong with formally including
18 other industries that may be impacted? I am talking
19 about on the panel, on the committee at the early --
20 the preliminary stages, sir, rather than having a
21 document put up in a hall and you've got 15 days in
22 which to respond.

23 Is there any difficulty with having more
24 formal input from other industries as well?

25 MR. GREENWOOD: A. Well, I think this

1 type of issue may be spoken to more appropriately in
2 Panel 15, but I will attempt to give you an opinion on
3 it, having been involved in a planning team.

4 The industry involvement I think had
5 particular pertinence when FMAs began and they assumed
6 responsibility for management planning and actual
7 writing of that plan. This was at about the time when
8 they became members of the planning team, so that I
9 think was the underlying factor involved.

10 There is also a practical aspect. There
11 are numerous groups and numerous peoples that have
12 particular interest in a timber management plan and I
13 think from a practical point of view and a reasonable
14 point of view you have to limit that team to some
15 number which allows that team to work.

16 Now, I think in some respect the
17 involvement of Ministry of Tourism and Recreation
18 representative on the plan was in recognition of the
19 tourism industry - on the planning team I should say -
20 or invitation for them to be members of the planning
21 team recognizes that industry.

22 Q. So you see that as a problem, the
23 committee will be too big?

24 A. This is a personal opinion and from
25 my experience I could see that there could develop an

1 issue as to where you would draw the line in terms of
2 who you would include on that planning team and the
3 practical limits of operating such a team.

4 Q. Do you deal with those types of
5 issues on a daily basis, sir, where you draw the line?

6 A. We, certainly -- yes, we do.

7 Q. Sir --

8 A. And I would suggest, I guess, that
9 the line was drawn.

10 Q. I would like to draw your attention
11 to an example which is given in Exhibit 379, it is at
12 page 81. Page 81 of exhibit 379, Smith Lake.

13 Do you have that sir, Mr. Clark? I
14 believe you testified about that, sir, in your
15 evidence-in-chief?

16 MR. CLARK: A. I did.

17 Q. Now, sir, I am very interested in
18 this. This is an example of how things are supposed to
19 be done.

20 A. This is an example of how things can
21 be done.

22 Q. Is it an example of how things are
23 supposed to be done?

24 A. Well, it is a hypothetical example,
25 so I guess to the extent that it demonstrates the way

1 in which certain situations can be handled, it's an
2 example of the way things could be done.

3 Q. Again, is it an example of the way
4 you think that things should be done, sir?

5 A. I wouldn't say should be done. I
6 said it's an example of the way the tool can be used
7 and I might point out that this was not -- this was
8 produced by a steering committee and through workshops,
9 it wasn't produced by me, so I can't speak to it.

10 Q. Well, at page 79 it indicates that:
11 "The following examples are provided to
12 assist the reader in understanding the
13 potential application of this manual to
14 field situations. The examples cannot
15 convey the full spectrum of conditions to
16 be encountered by the timber and tourism
17 industries, however, these selected
18 hypothetical examples try to illustrate
19 some of the major applications for
20 applying the guidelines and some
21 potential results."

22 Now, is this example at page 81, sir, in
23 there as an example of the result that will arise after
24 following the guidelines?

25 A. I said it's an example of a result

1 that could arise. I think that on any lake without
2 knowing the details it's hard to know exactly what the
3 result will be.

4 THE CHAIRMAN: Yes, but presumably, Mr.
5 Clark, you would not be putting an example in here to
6 show how the guidelines could be applied, that would be
7 an example of something you wouldn't like to see done.

8 I mean, obviously if it is put in as an
9 example like this, it's put in for the benefit of the
10 reader to say, in applying the guidelines and in doing
11 it in this fashion, you would meet the intent of the
12 guidelines.

13 MR. CLARK: I think that's correct, yes.

14 MR. CHAIRMAN: It's meant to be positive
15 as opposed to negative.

16 MR. CLARK: Absolutely.

17 MR. EDWARDS: Q. Thank you. Now, sir,
18 would you agree with me that the so-called normal area
19 of operations at the -- would ordinarily be the north
20 end of the lake or the top part of the lake, and that
21 seems to indicate that there has been a cut to the
22 shoreline?

23 A. Well, I am not sure what normal is
24 and this one of the reasons I am a little concerned
25 about this. You could assume that it was clearcut, but

1 we don't know specifically what has happened there.

2 And that is, I guess, the reason I was
3 being cautious about -- I mean, what it is saying is
4 that normal operations, whatever normal operations
5 should be on that particular site, would occur in that
6 area.

7 Now, without knowing the site conditions
8 and the species and everything else it would be
9 difficult to know exactly what normal was in that
10 situation. You could assume if you wanted to that it
11 was a clearcut to the --

12 Q. To the shoreline?

13 A. Sure.

14 Q. And in your evidence-in-chief, sir,
15 you spoke of this example as an example which would
16 keep the lake inaccessible; do you recall that
17 testimony?

18 A. No, I don't recall exactly what I
19 said.

20 MR. FREIDIN: I don't think he spoke to
21 inaccessible in that example.

22 MR. EDWARDS: Q. Well, if I might sir,
23 at page 13747 of the transcript --

24 MS. BLASTORAH: Do you have a volume
25 number, please?

1 MR. EDWARDS: That is Volume 82.

2 Q. Sir, do you recall -- actually
3 commencing at the bottom of 13746, Mr. Freidin made a
4 comment:

5 "MR. FREIDIN: Q. 81?"

6 That was an indication that that page was
7 being entered as a separate exhibit and you gave the
8 following answer:

9 "MR. CLARK: A. 81. A Collaborative
10 Agreement on a Combination of Reserves in
11 Most Critical Areas, Modified Operations
12 on most days and Normal Operations
13 elsewhere, and No New Road Access to the
14 Lake."

15 Exhibit N. 466M, overhead reproduction of
16 page 81 of the Tourism Guidelines, was entered.

17 "MR. CLARK: So presumably this is what
18 we would probably call an outpost lake,
19 an area that's been previously
20 inaccessible and it is obvious in this
21 case the decision has been made to keep
22 it inaccessible."

23 THE CHAIRMAN: Do you recall giving that
24 testimony, sir?

25 MR. CLARK: That sounds correct to me.

1 MR. EDWARDS: Q. All right. So the
2 issue of accessibility was -- or access was in your
3 mind as you addressed page 81 of the Tourism
4 Guidelines; correct?

5 MR. CLARK: A. Yes it was, and I think
6 what I was doing was simply quoting the title under the
7 example. That was the description contained in the
8 guidelines.

9 Q. But then, sir, you commented that:
10 "...it was obvious in this case that the
11 decision had been made to keep the lake
12 inaccessible."

13 A. Yeah.

14 Q. Yes.

15 A. And I was talking in hypothetical
16 terms, but I guess I was trying to explain the
17 situation that I sensed was being demonstrated in this
18 particular example.

19 Q. And a person engaged in timber
20 management planning could use page 81 and the rest of
21 the volume in deciding how to protect inaccessible
22 tourist operations; correct?

23 A. Yes. It's an example of the range of
24 prescriptions that you might get involved in on a lake
25 of this type.

1 Q. Sir, could I suggest to you that any
2 example of a clearcut to the shoreline means that the
3 lake has been accessed for all intents and purposes?

4 A. It certainly increases the potential
5 for access, there is no doubt about that.

6 Q. Access can be gained in the winter by
7 snow machine; can it?

8 A. Yes.

9 Q. Can it be gained in the summer by
10 all-terrain vehicles?

11 A. Correct.

12 Q. 4-wheel drive vehicles?

13 A. Correct.

14 Q. So the outfitter who is operating
15 this tourist outpost camp in the tourism reserve on the
16 right side of page 81 had had his lake -- his or her
17 lake accessed; correct?

18 A. Well, you know, I am getting back to
19 what I said earlier. This is a hypothetical example
20 and I think that the point that I made in my evidence,
21 I think, was that what it tended to depict to me was
22 that there is a range of values on that particular lake
23 and there's a range of tools, the moose guidelines, the
24 tourism guidelines and the fish guidelines which
25 collectively can assist in protecting those values.

1 Now, I appreciate that when you look at
2 that diagram and you hypothesize about what might
3 happen in this particular situation, that access could
4 be a problem, there's no question in my mind at all,
5 and that if I were a tourist operator, I would be
6 concerned about that sort of situation.

7 Q. So, as a guideline for the protection
8 of tourism values this might be somewhat deficient?

9 A. Well, I certainly wouldn't want to
10 apply this in a rote manner, I would want to glean the
11 best information from this particular example and use
12 it in an appropriate way in light of the particular
13 situation I was dealing with.

14 Q. Sir, I am going to invite you to take
15 a look at page 45 to 55 of Exhibit 379, the Tourism
16 Guidelines.

17 THE CHAIRMAN: Mr. Edwards, if I could
18 just interrupt for a moment.

19 Dr. Allin, if that were a lake -- Smith
20 Lake, page 81, in excess of ten hectares, it would
21 automatically be covered by the fish guidelines;
22 correct?

23 DR. ALLIN: Yes, it would be.

24 THE CHAIRMAN: And if it were in fact
25 covered by the fish guidelines, you wouldn't be having

1 cutting to the shoreline; would you?

2 DR. ALLIN: You could in some situations,
3 yes. For example, where you had a warm water lake and
4 through your surveys of that lake you knew that there
5 was no critical fish habitat in an area, then you do
6 have an option of clearcutting on a limited basis in
7 that situation, or you could have a shelterwood cut.

8 THE CHAIRMAN: Okay. I guess the point I
9 am trying to make or request some assistance on is: In
10 any of these situations you would have to take into
11 account all of the guidelines that might apply, the
12 fish guidelines, the moose guidelines, the tourism
13 guidelines certainly and any other ones--

14 DR. ALLIN: Yes, very much so.

15 THE CHAIRMAN: --that might be
16 applicable. So what shows up for instance on page 81
17 could be, in certain circumstances, countermanded by
18 one of the other guidelines; would that be correct?

19 MR. CLARK: I think that's absolutely
20 correct and I think that's really the message that I
21 see in that diagram, is that in that particular example
22 we can get into all sorts of discussions as to what
23 might or might not happen with regard to the particular
24 hypothetical example.

25 But I think the important message here is

1 that there is a range of values and there is a number
2 of different tools and what this is showing is that in
3 coming up with an appropriate set of prescriptions for
4 a particular lake, in this case what we assume is a
5 remote lake, you want to use both the moose guidelines,
6 the tourism guidelines and the fish guidelines. And I
7 believe in my evidence, that is the point that I
8 emphasize.

9 The question of access is rather
10 speculative at this time. If you were dealing with a
11 clearcut up to the water's edge, there is no doubt that
12 access might ultimately be a problem. Obviously you
13 can't get a skidder that close to the lake, you may be
14 able to get snowmobiles, all-terrain vehicles or a
15 variety of other things. But as I pointed out earlier,
16 it's not clear when you say normal operations what
17 normal operations are.

18 The point I want to stress is simply that
19 these are examples and I think that when operators and
20 forest industry personal and MNR people are looking at
21 these things they have to glean the best examples of
22 what can be done and use them in their particular
23 situation rather than read too much into the diagram in
24 a negative way.

25 MRS. KOVEN: What occurs to me, Mr.

1 Clark, is that even given the array of reserves and
2 areas of concern, it would be a rare case indeed where
3 you would have a lake that was entirely -- that had a
4 complete reserve around it, that that would be a very
5 rare case where there would absolutely be no access
6 through --

7 MR. CLARK: Well, that's an interesting
8 comment, because when I reviewed this with a number of
9 my colleagues, the answer I got was: Well, that hardly
10 ever happens. Normally - and I think this is true - if
11 we have a high quality tourism lake that is identified
12 in the fisheries management plan or if it's identified
13 in a DLUG or if it's simply just generally understood
14 at the district level to be important and it's been
15 identified by operators and by MTR, it is more often
16 normal for us to simply put a reserve around the whole
17 lake. That would be more common practice right now.
18 This kind of scenario in fact does not occur that
19 often.

20 MR. GREENWOOD: There is another key
21 point here too, Mrs. Koven, and that is, again, it's
22 the rare instance where harvesting takes place all the
23 way around the lake at one point in time.

24 Normally, there is only a percentage of
25 shoreline that is going to have harvesting take place

1 on a particular plan.

2 MR. EDWARDS: Q. Sir, I am going to ask
3 you to refer to pages 45 to 55 of the exhibit.

4 Sir, would you agree with me that these
5 10 pages are again filled with examples where it
6 appears that cutting to the shoreline is an accepted
7 practice?

8 I invite you to take a look at page 48
9 under the modified block cuts, example 4.2.2 at the top
10 of page 49, the bottom of page 49, pages 50 and 51.

11 Would those all appear to be examples
12 where the practice appears to permit cutting to the
13 shoreline of a lake?

14 MR. CLARK: A. That's correct.

15 Q. These, again, are examples of what
16 you would hope are -- these are what you would hope are
17 positive examples, sir, of the way that one should
18 consider operating?

19 A. Well, yes, they are. They are
20 examples of ways in which you can modify operations to
21 protect other values.

22 Q. If you go on, sir, at pages 54 and 55
23 it shows that one could use a chevron cut with leave
24 blocks or chevron and block cuts staggered; correct,
25 and that again allows cutting to the shoreline?

1 A. That's correct.

2 Q. Indeed at page 45 of the document
3 itself it states, paragraph 4.2.1, that:

4 "Clearcuts on the shoreline may be
5 visually acceptable."

6 Do you have that, sir?

7 A. I do, yes.

8 Q. Would you agree with me, sir, that
9 those 10 pages contain examples of situations where
10 access to a lake is essentially guaranteed? I know you
11 don't believe that anything is guaranteed, but let's
12 put it hypothetically.

13 A. There is no doubt, I would say, that
14 when you are in harvesting operations in the vicinity
15 of any lake the potential for access is increased, even
16 I might stress when you have reserves in place.

17 Q. The closer you get to the lake the
18 higher the probability of access?

19 A. Usually.

20 Q. Now, sir, just before that 10-page
21 section is a 4-page section which deals -- it is called
22 General, but it deals in some sense with prohibiting
23 access or restricting access. Those are pages 41 to 44
24 inclusive. Do you have those, sir?

25 A. I do.

1 MR. EDWARDS: If I could just have a
2 minute, Mr. Chairman.

3 THE CHAIRMAN: Very well.

4 MR. EDWARDS: Q. Sir, the questions I am
5 going to ask you in this area will, I think, be more
6 fully developed in Panel 14, but I would ask you to
7 address in a preliminary way a couple of concerns that
8 I have.

9 The suggestions for road closure include
10 attempting to have restrictions by way of berming or
11 gating, removing of the road and signage - signage,
12 which I assume is erecting signs.

13 Sir, is it your evidence that the MNR has
14 the legislative tools to implement road closures
15 after -- during and after harvest?

16 MR. CLARK: A. I believe they do.

17 Q. Is that the authority under the
18 Public Lands Act?

19 A. Yes, I believe so.

20 Q. What about the limiting of access
21 points, sir?

22 A. I beg your pardon?

23 Q. What about the limiting of access
24 points? Does the MNR have the legislative tools to do
25 that as well?

1 A. Yes.

2 Q. What about dealing with and
3 correcting illegal access?

4 A. Yes.

5 Q. Where is that authority in your
6 process?

7 A. Well, I believe it would relate to
8 the legislation that was used to close the road in the
9 first place. I can't give you the details, though.

10 MR. EDWARDS: If I may just have a
11 minute, Mr. Chairman, I am trying to see what I can
12 leave for Panel 14.

13 Q. Sir, is there a set period of time
14 that the roads, secondary and tertiary roads are kept
15 open after timber operations are completed?

16 MR. CLARK: A. I am not sure that I can
17 answer that question as well as some of my colleagues,
18 perhaps Mr. Hynard.

19 MR. HYNARD: A. A set period following
20 completion of harvesting in an area?

21 Q. Yes.

22 A. No, there is no set period. It would
23 depend on a number of factors, particularly follow-up
24 silviculture.

25 Q. Is one of the problems in closing a

1 road after harvest that you have to go in and, one
2 hopes, prepare the site for seeding and regenerating
3 the new crop?

4 A. Or several of those techniques, I
5 would presume so. Because you are continuing to use
6 the road you wouldn't be constructing berms, for
7 example, or digging out that road while you are using
8 it.

9 A question of gateage and other closures,
10 I'm afraid I am not qualified to answer that question.

11 Q. Is anybody qualified on this panel as
12 to how effective simply signing a road is in terms of
13 restricting access. Does anybody feel qualified to
14 answer that?

15 MR. GREENWOOD: A. It depends on what
16 you call qualified. I have been involved with this,
17 Mr. Edwards. Obviously when you sign the road under
18 Public Lands Act, the problem becomes that of
19 enforcement and having manpower able to enforce that
20 closure. That can tie up a fair amount of time, so the
21 issue of the signage really relates to enforcement, not
22 to legislation itself.

23 But in relation to your question about
24 how long those roads are left open under the
25 Environmental Guidelines for Access Roads and Water

1 Crossings, it is necessary now as part of the timber
2 management planning process to formulate a use
3 management strategy for roads and, again, this will be
4 expanded on in Panel 14. And that use management
5 strategy includes with it abandonment of roads.

6 Q. This is the book which is in effect
7 as of April 1st of this year?

8 A. That's the book. When it became
9 effective, I'm not sure.

10 THE CHAIRMAN: What is the name of the
11 book again?

12 MR. GREENWOOD: Environmental -- sorry,
13 go ahead.

14 MR. EDWARDS: Environmental Guidelines
15 for Access Roads and Water Crossings.

16 Q. Sir, Mr. Greenwood, my understanding
17 is that the primary use of signs and the format for
18 signs which are used to closed roads is for target
19 practice. Is it your experience that that is an
20 ineffective way to prevent access to the lake?

21 MR. GREENWOOD: A. No, it is my
22 experience that it can be effective given the proper
23 enforcement. The signage is strictly under the Public
24 Lands Act to notify the public that the road is closed.

25 Q. These signs would be located,

1 generally speaking, many miles away from the closest
2 community?

3 A. They are generally located where the
4 road is closed.

5 Q. That's out in the woods somewhere?

6 A. That's correct.

7 Q. Mr. Clark, is it your evidence, sir,
8 that the tourist industry approved of the portion of
9 the Exhibit 379 which holds up examples of cutting to
10 the shoreline?

11 MR. CLARK: A. Well, I have no evidence
12 to the -- I am not aware of any evidence to the
13 contrary. As I said, they were involved on the
14 steering committee and they were -- the members of the
15 tourism industry were also involved in the workshops.

16 Q. The author of the document was whom?

17 A. Jim Stansbury.

18 Q. He was the person hired by the MNR?

19 A. He was the consultant hired jointly
20 by MNR and MTR.

21 One point I would stress is that we
22 recognize, as with the other guidelines, that the
23 effectiveness of the guidelines is not -- has not been
24 clearly established yet and, in Panel 16 when we are
25 dealing with the effects monitoring program, evidence

1 will be led concerning the monitoring program as it
2 relates to the tourism guidelines.

3 Q. Sir, one final area of questioning
4 with respect to the tourism guidelines specifically.

5 At page 13751 of your previous testimony
6 in Volume 82, and that was on March 8th of 1989, you
7 spoke about a concept called exception reporting.

8 Do you recall -- actually Mr. Freidin put
9 it to you in a question. And just to refresh your
10 memory, sir, perhaps I will put the questions and
11 answer to you, if I may. At line 5:

12 "Q. Mr. Clark, you have referred
13 to the more general nature of the
14 direction given in this particular
15 guideline than the Guidelines for
16 Protection of Fish Habitat and the
17 Provision for Moose Habitat. Does that
18 difference have any significance if one
19 it considering the ability to put into
20 place a system for exception reporting,
21 indicating when in fact they have
22 deviated from the guideline?

23 A. Well, I would like to think
24 that the evidence spoke for itself. I
25 think the Oba Lake example was a

1 classic example where it was very
2 difficult to identify a general rule of
3 application. I think that what we have
4 in those guidelines are a series of
5 examples, and given that's what they
6 are, it is very hard to say that you have
7 deviated, particularly when the emphasis
8 in the document is on collaboration, it
9 is process oriented."

10 Do you recall being asked that question
11 and giving that answer, sir?

12 A. I do, sir.

13 Q. The problem, as you see it, sir, then
14 is that these guidelines are so flexible that it is
15 difficult to tell if you have broken them; is that a
16 fair way of putting it?

17 A. I think I would suggest that the
18 measure would be in the -- I don't really like to state
19 it that way. I think it is a case of: Judge us by our
20 results.

21 Q. But would you agree that you find
22 difficulty in implementing a system of exception
23 reporting because of the nature of those guidelines?

24 A. That's right, yes.

25 Q. Sir, what happens when there is a

1 system of exception reporting within some type of
2 mandatory directive; does the MNR have any mandatory
3 directives in the system of exception reporting
4 anywhere?

5 A. Well, I think we have talked to that
6 to some extent and my colleagues here can talk to the
7 fish and moose guidelines in the sense that we are
8 prepared to report exceptions.

9 Q. I understand that you believe the
10 moose and fish guidelines are somewhat more amenable to
11 a system of exception reporting?

12 A. That's correct.

13 Q. Is that a fair statement of your
14 evidence?

15 A. That's correct.

16 Q. So if there is difficulty in the
17 implementation of these guidelines --- the Tourism
18 Guidelines, sir, those difficulties would not then be
19 reported to anybody other than the MNR?

20 A. The difficulty -- the reporting that
21 you would find would be contained in the supplementary
22 documentation that related to the comprehensive
23 planning process that you went through with -- the area
24 of concern planning process, so that ideally when a
25 value -- or at least when a value is identified in that

1 planning process and alternatives are identified, that
2 process is fully documented.

3 So to the extent that, for example,
4 tourist operators identified their concerns in that
5 process, that input would be documented and available
6 to the public in terms of reviewing that plan or any
7 other of the reviewing agencies.

8 To the extent that MTR, the Ministry of
9 Tourism and Recreation is a member -- is involved in
10 the planning process and a member of the planning team,
11 they would be aware of the issues that arose in the
12 course of the planning process that related to tourism
13 values.

14 Q. Would there be anybody or any
15 organization to whom one would report exceptions when
16 there have been deviations from the moose and fish
17 guidelines?

18 A. Well, I think that we made it quite
19 clear that in the case of the fish guidelines it would
20 be MOE, particularly as it related to water quality.

21 Q. Would there be any problem in having
22 in place a system of reporting of the difficulties;
23 that is to say -- pardon me, I will go back for a
24 moment.

25 With respect to the Tourism Guidelines,

1 sir, would it be a problem to have a system of
2 reporting to the MOE when difficulties are encountered
3 in the implementation of those guidelines?

4 A. Well, as I say, I think that we
5 report. To the extent that the Ministry of Tourism and
6 Recreation, which is the lead ministry with respect to
7 tourism, is involved on our planning teams, they are
8 aware of and part of the process, so that they are
9 aware.

10 As I say, as far as other documentation,
11 as far as other agencies go, the decision-making
12 process that we follow in the comprehensive planning
13 process for areas of concern does provide for
14 supplementary documentation; it provides the input that
15 was received when we dealt with a particular issue.

16 Q. Is it a good idea to have a system of
17 exception reporting with respect to the moose and fish
18 guidelines?

19 A. I think it is of limited value
20 because in all cases we are dealing with guidelines
21 and, to the extent that we deal with a manual of other
22 ministries, for example MOE as it relates to water
23 quality, we have indicated a willingness to exception
24 report in that instance.

25 Q. Sir, you indicate that there is a

1 difficulty in exception reporting with respect to the
2 deviation from the Tourism Guidelines. Would there be
3 any difficulty in having a system in place which
4 obligated reporting, if not of the deviation, obligated
5 reporting of the controversy?

6 A. I think we do report the controversy.

7 Q. To the Ministry of the Environment?

8 A. Well, to the extent that we submit a
9 plan and we submit supplementary documentation, we have
10 submitted the input that has been received with respect
11 to that particular issue.

12 THE CHAIRMAN: Why, Mr. Edwards, are you
13 fastening upon the Ministry of the Environment as
14 opposed to the Ministry of Tourism and Recreation?

15 MR. EDWARDS: I guess, Mr. Chairman, I
16 may be looking for anybody but the MNR, somebody
17 outside of the MNR who may have some input after this
18 Board is no longer sitting.

19 THE CHAIRMAN: Why would your question be
20 directed to Mr. Clark on the basis that: Do you find
21 anything wrong with putting in place a system of
22 reporting exceptions or difficulties or controversies
23 to the Ministry of Tourism and Recreation as opposed to
24 the MOE?

25 I am just questioning why you are

1 choosing that particular ministry.

2 MR. EDWARDS: The Ministry of the
3 Environment appears to be the ministry who may have
4 some clout with respect to moose and fish and then --

5 THE CHAIRMAN: Well, we are dealing with
6 tourism values here. Wouldn't you think that Tourism
7 and Rec would have some clout with respect to tourism
8 values?

9 MR. EDWARDS: I refuse to answer that
10 question on the grounds that I may get in trouble.

11 THE CHAIRMAN: I think you just answered
12 it.

13 MR. EDWARDS: Q. Sir, you don't see a
14 problem with the MNR having to report the difficulties
15 to some other government agency; do you, whether it is
16 the MOE or MTR?

17 MR. CLARK: A. Well, you know, I keep
18 going back to what I said earlier, to the extent that
19 we provide supplementary documentation; in other words,
20 we provide detailed background information on the
21 issue, the alternatives that were discussed, all the
22 documentation that was received with respect to that
23 particular issue is normally included, that is
24 available to whatever agency or individual wants to
25 look at it.

1 Furthermore, as I pointed out earlier,
2 MTR is directly involved in the process.

3 Q. If I can ask you this, because it
4 will deal -- does deal with the issue of the Ministry
5 of the Environment.

6 If there is a big battle over the
7 implementation of these guidelines, your own chart,
8 sir, which is set out in the Class Environmental
9 Assessment Document shows at the very bottom of the
10 chart that if those controversies can be resolved that
11 one of the alternatives is bump-up; correct?

12 A. That's correct.

13 Q. And that very clearly involves the
14 Ministry of the Environment?

15 A. That's correct.

16 Q. Is there any problem with having a
17 formal linkage or notification to the Ministry of the
18 Environment so that they don't just late in the day
19 hear about the potential bump-up?

20 A. Well, I don't think it really happens
21 that way. As I say, there is a number of different
22 stages in the planning process. The public is
23 notified, all other government agencies are notified,
24 they have an opportunity to be involved.

25 The issues that are identified and then

1 subsequently dealt with through the area of concern
2 planning process, are fully documented, and all of that
3 material is available, as I say, to the public or to
4 other agencies as required.

5 Q. Is there any problem with making sure
6 it gets to the Ministry of the Environment?

7 A. We do, we always send our plans to
8 the Ministry of the Environment.

9 MR. GREENWOOD: A. Mr. Edwards, this
10 supplementary documentation actually forms part of the
11 management plan as an appendice. And while the plan is
12 under review, the supplementary documentation is
13 available at the review processes as well, at the
14 public open houses.

15 The supplementary documentation includes
16 documentation of those concerns that have been raised
17 with the alternatives that were examined and what the
18 conclusion was.

19 So if in fact there was trouble in
20 applying those guidelines, it would be included and
21 those concerns -- specific concerns that were raised by
22 individuals would be included in the supplementary
23 documentation of the plan which stays as part of that
24 plan.

25 I am referring particularly to the Timber

1 Management Planning Manual on page 109 which outlines
2 appendices and supplementary documentation that is
3 required to accompany the plan. And in terms of the
4 supplementary documentation on page 110, I am reading
5 only a portion of this:

6 "The following information must be
7 included as supplementary documentation
8 which accompanies the two copies of the
9 plan when submitted."

10 And the second point is:

11 "Documentation of the planning procedure
12 for forest access roads and determination
13 of primary road corridors for the 20-
14 year period of the plan and, more
15 specific locations for the 5-year term.
16 This documentation must include an
17 identification of the alternatives
18 considered, the environmental evaluation
19 and comparison of the alternative, how
20 public submissions or concerns were
21 considered, and the choice of the
22 preferred or most acceptable location."

23 And it goes on to talk about
24 documentation of the planning procedure for harvest
25 renewal and maintenance and records of public

1 consultation in the planning process.

2 And that type of supplementary
3 documentation that Mr. Clark referred to accompanies
4 the plan.

5 Q. That accompanies the plan once it is
6 prepared?

7 A. It accompanies the plan once it is
8 prepared. It also -- the supplementary -- I am reading
9 from page 109 now:

10 "The supplementary documentation must
11 accompany the plan through the review
12 process but does not form part of the
13 plan..." as at that time "...and
14 therefore will not be available with
15 every copy."

16 But it is there at the review process and
17 at the public open houses for inspection.

18 Q. Well, I am not going to pursue that
19 any further.

20 MR. EDWARDS: Mr. Chairman, I am going to
21 move into a completely different area and I am open to
22 suggestions. We can either start it, or...

23 THE CHAIRMAN: No, I think this will be
24 an appropriate time to break for lunch.

25 We will return at two o'clock.

1 ---Luncheon recess taken at 12:30 p.m.

2 ---Upon resuming at 2:05 p.m.

3 THE CHAIRMAN: Thank you. Be seated,
4 please.

5 Mr. Edwards?

6 MR. EDWARDS: Thank you, Mr. Chairman.

7 Mr. Chairman, I just have a couple of
8 questions which relate to the areas we touched on this
9 morning, then I'll be switching gears.

10 Q. Mr. Clark, do you have Exhibit 466
11 available to you; that is the Background Information,
12 Timber Management Guidelines for the Protection of
13 Tourism Values.

14 Actually what I am referring to is the
15 same as page 10 in the Guidelines, if you have got the
16 guidelines handy.

17 Do you have that, sir? It is page 10 in
18 the Exhibit 379.

19 MR. CLARK: A. Yes, I do.

20 Q. Yes. Sir, at the bottom under the
21 heading of Areas of Concern, you see there is several
22 items: no operations, reserve, details of access, et
23 cetera.

24 A. That's correct. I see that.

25 Q. Yes. Sir, is that statement on the

1 left side of the document actually true, the indication
2 that a reserve means no operations. Does a reserve
3 sometimes mean that operations are still permitted?

4 A. No, a reserve in the way that we use
5 it means an area in which no timber management
6 activities occur.

7 Q. Does that include a so-called skyline
8 reserve?

9 A. If it was called a skyline reserve in
10 the sense -- in the terms of the definition that I just
11 used, that would mean no harvesting.

12 If, on the other hand, it was an area of
13 modified operations, then it would permit or could
14 permit some form of timber management.

15 Q. So the word reserve to you means no
16 operations, period?

17 A. Yes, that's correct.

18 Q. Mr. Clark and Mr. Greenwood, I
19 believe you both gave some evidence or made some
20 commentary with respect to Oba Lake and the Wawa
21 District?

22 MR. CLARK: A. Yes, we did.

23 MR. EDWARDS: For the Board's information
24 there is a map which is Exhibit 13 just to the right of
25 Mrs. Koven which is the Wawa District. If I might, I

1 will point out the general location of Oba Lake for
2 you. I don't know if the panel can see, but I'm sure
3 they're familiar with it.

4 Oba Lake is the lake which is near the
5 northern part of the district. Just south of the
6 Hearst boundary on the left side is another lake called
7 Esnagi Lake. That is the area that I will be asking
8 certain questions about, Mr. Chairman.

9 Q. Is the manner in which tourism
10 concerns were handled around Oba Lake, is that an
11 example of a success story, in your view, Mr. Clark?

12 MR. CLARK: A. At the time that I came
13 to Wawa District I believe that it was an example of a
14 success story, yes, and that is why I introduced it as
15 a piece of evidence.

16 Q. The interrogatory which was asked in
17 Panel 8 made reference to a development at the district
18 level of successful prescriptions to control use in
19 scenic values such as winter harvest operations,
20 careful locations of access roads, et cetera.

21 The request to provide details of the
22 prescriptions and copies thereof resulted in a two-page
23 letter to Mrs. LeBrun, spokesperson for the Oba Lake
24 property owners, the letter being dated August 24th,
25 1981.

1 So that was -- that would be reflective
2 of your understanding that Oba Lake and the area around
3 it was a success story?

4 A. I am sorry, I don't have a copy of
5 that material here, so I can't really respond to it.

6 Q. Well, I have 12 copies and I am
7 proposing to enter this as an exhibit. So I will
8 tender them to the Board and I will certainly provide
9 the witness with one of these.

10 THE CHAIRMAN: It will be Exhibit 505.

11 ---EXHIBIT NO. 505: Copy of letter dated August 24,
12 1981 addressed to Mrs. Lebrun,
13 spokesperson for the Oba Lake
 property owners.

14 MR. EDWARDS: (handed)

15 THE CHAIRMAN: Thank you.

16 MR. EDWARDS: Q. Are you familiar with
17 the correspondence which is part of the exhibit, Mr.
18 Clark?

19 MR. CLARK: A. Yes, I believe I have
20 seen it before although, as I say, I wasn't directly
21 involved at this time. I was not the district
22 manager--

23 Q. Right.

24 A. --in 1981.

25 Q. And would you agree with me that at

1 page 13714 of your testimony on March 8th in Volume 82
2 that you made the following statement as part of your
3 answer:

4 "When I got to Wawa District, for
5 example, I can recall that prior to my
6 getting there the unit forester on the
7 Magpie Forest who was Mr. Greenwood at
8 that time had had considerable success in
9 establishing a variable width reserve on
10 Oba Lake and this was one of our prime
11 tourism lakes. It had a number of
12 Tourist lodges on it and a number of
13 cottages on it."

14 Do you recall giving that evidence, sir?

15 A. Yes I, do.

16 Q. And at page 13749 on the same date,
17 do you recall as part of your evidence stating as
18 follows:

19 "The example that we used concerning Oba
20 Lake is a good example of a prescription
21 which was developed well in advance of
22 the time the guidelines were developed
23 and, in fact, the Oba Lake situation may
24 well have been an example that stimulated
25 the development of that particular

1 direction in the guidelines."

2 Do you recall that?

3 A. Yes, that's correct.

4 Q. The guidelines that you were
5 referring to, sir, were the--

6 A. Tourism guidelines.

7 Q. --Tourism Guidelines. So just to
8 make certain that you are not hiding your light under a
9 bushel, we can agree in the assessment of the MNR that
10 Oba Lake was a successful application of guidelines
11 similar to the ones in Exhibit 379?

12 A. Yes, at the time I felt that it had
13 been a successful solution to that particular problem.

14 THE CHAIRMAN: When you say at the time,
15 what about now?

16 MR. CLARK: Well, I don't want to say I
17 smell a rat here, but I certainly sense that the line
18 of questioning may suggest otherwise.

19 MR. EDWARDS: Nothing could be further
20 from my mind.

21 MR. CLARK: My recollection, of course,
22 was based on feedback from my staff and from tourist
23 operators and my day-to-day dialogue with people in the
24 district. And in that context I felt that this was an
25 example of a case where very considerable effort had

1 been made on the part of Ministry of Natural Resources
2 to work directly with the operators in that particular
3 lake.

4 And I might add that there was no DLUG
5 then, there was no commitment to protect tourism there,
6 were no objectives for tourism, but it was the view of
7 the district manager of the day, Mr. Straight, that
8 this was a value, the values represented by these --
9 the outposts on that lake were significant and should
10 be protected.

11 And with that in mind an effort was made
12 to establish a variable width reserve and, in my view,
13 the results at the time I was there, the messages I was
14 getting were quite positive.

15 MR. EDWARDS: Q. Mr. Greenwood had been
16 the unit forester -- Mr. Greenwood, you had been the
17 unit forester from '78 to '85, sir?

18 MR. GREENWOOD: A. That's correct.

19 Q. And, Mr. Clark, you were the district
20 manager for a period of time?

21 MR. CLARK: A. That's correct.

22 Q. From when until when?

23 A. Well, it would have been about two
24 and a half years ago. So around '85.

25 Q. You left in '86, I understand.

1 A. I think so, yeah. Time is fading.

2 THE CHAIRMAN: If you ever have to
3 account for your whereabouts for five years from now
4 for 1987, '88, '89 --

5 MR. CLARK: I will know.

6 MR. EDWARDS: None of us will be able to
7 forget, Mr. Chairman.

8 Q. Your curriculum vitae, Mr. Clark,
9 which was filed in Panel 7 shows you being the district
10 manager in Wawa from '84 to '86. Would that be
11 correct?

12 MR. CLARK: A. Yes.

13 Q. So between you and Mr. Greenwood
14 there is some knowledge of -- very direct knowledge of
15 Wawa from '78 to '86?

16 A. I think that's correct.

17 Q. Now, I understand as well, sir, that
18 you testified that you checked back in the Wawa
19 District for the purposes of giving evidence in this
20 panel just to see how things were going?

21 A. I did.

22 Q. When did you do that?

23 A. Oh, I would guess it was about three
24 weeks to a month ago.

25 Q. I see. And did you learn anything

1 that changed your opinion as to whether Wawa District
2 and the prescriptions around Oba Lake represent a
3 success story?

4 A. I thought the answer I got, frankly,
5 was quite typical and perhaps what I might have
6 expected. And the answer I got was that, from the
7 perspective of the tourist operators on the lake, there
8 was some concern, there was a continued concern about
9 access to the lake as I recall, but my staff also -- or
10 the staff of the day, I should say, also indicated that
11 notwithstanding that concern they did not have a
12 significant or any evidence to suggest that in fact a
13 significant problem did exist.

14 And I think you have to understand in
15 these situations that a success story in these cases is
16 often a compromise and the compromise brings with it
17 oftentimes a lingering concern about whether it will
18 work or not.

19 And I know that Mrs. Lebrun, for example,
20 was genuinely and obviously very concerned about the
21 potential impact of the harvest and road access
22 implications on her operation but, as I say, in the
23 discussions I had with staff, I was not able to
24 determine that significant negative effects had
25 actually occurred.

1 MR. EDWARDS: Mr. Chairman, if I may
2 digress for a moment here. I checked the exhibit list
3 in the evidence room and Exhibit 467 was not listed on
4 the exhibit list for some reason, but it does appear to
5 be an exhibit.

6 As I just noted in the transcript, it
7 appears to be an exhibit which would be relevant to
8 this line of cross-examination. It is apparently a
9 hand-drawn map of a reserve Oba Lake.

10 I am just wondering if the --

11 Q. Do we have it here?

12 MR. GREENWOOD: A. I have requested from
13 Mr. Mander that it be here. It's right here, yes.

14 Q. I see. Do you have it with you, Mr.
15 Greenwood? It hasn't been posted up.

16 You could confirm that the tourist
17 outfitters in the area - and indeed a number of
18 cottagers - had great concern about roads getting near
19 to Oba Lake and in that area?

20 MR. CLARK: A. Oh, I certainly could.

21 Q. Yes. And were there concerns about
22 access to other lakes such as Esnagi?

23 A. Yes, there just definitely were.

24 Q. Now, sir, are you familiar with the
25 fact that recently there has been what amounts to a

1 wood transfer between the Nagagami Forest which is part
2 of the Hearst District and the Magpie Forest which is,
3 of course, part of the Wawa District?

4 A. I wasn't -- I was aware that there
5 were negotiations and discussions ongoing, I wasn't
6 aware that it necessarily occurred, but that certainly
7 may well be the case.

8 Q. Mr. Greenwood, would you be familiar
9 with the fact that that has taken place?

10 MR. GREENWOOD: A. No, I would not. I
11 also was aware that negotiations had begun, in fact
12 they began while I was in Wawa District, but I have not
13 been aware of the completion of those.

14 THE CHAIRMAN: What was the name of that
15 other forest, Mr. Edwards?

16 MR. EDWARDS: Just one minute, please,
17 sir.

18 THE CHAIRMAN: Other than the Wawa one?

19 MR. EDWARDS: Nagagami which is
20 N-a-g-a-g-a-m-i.

21 THE CHAIRMAN: Thank you.

22 MR. OLDFORD: Mr. Edwards, Mr. Oldford
23 here. I am aware of that arrangement with respect to
24 the Nagagami and the Magpie forest, yes.

25 MR. EDWARDS: Q. Well, thank you, Mr.

1 Oldford. Perhaps you can jump in, because I intend to
2 ask some questions with respect to it and with respect
3 to how it came about. I think Mr. Greenwood would have
4 some understanding if he was involved in the initial --

5 MR. OLDFORD: A. If I might, just to
6 provide a little bit of an introduction.

7 The reason that we, as a Ministry, got
8 involved in working to provide a supply of wood that
9 was surplus to the needs of the Nagagami Forest to the
10 operator on the Magpie Forest was to ensure the
11 long-term survival of the Dubreuil saw mill in
12 Dubreuilville. That was the purpose.

13 And that happens -- quite often when one
14 area is in need of wood, we don't -- we are not
15 reluctant to find wood from other sources to meet that
16 need.

17 Q. Thank you very much for that, Mr.
18 Oldford.

19 Sir, when that transfer came about, could
20 you confirm that it in effect involves taking a portion
21 of land to the north of Oba and Esnagi Lake and, in
22 effect, assigning it from the Hearst District to the
23 Wawa District for a period of time?

24 A. What actually happens, and that was
25 identified in the timber management planning process,

1 is some stands had been allocated for forest by the
2 Dubreuil company on the south -- on the south end of
3 the Nagagami Forest and the map of the Hearst District
4 is right behind me and the stands are in the lower end
5 of the Township, I believe of Breckenridge and Lizard.

6 Q. Would they be in Lesard and
7 Mozambique Township?

8 MR. CLARK: A. That is the Wawa map.

9 Q. Mozambique is on the north end of the
10 Wawa District; correct?

11 MR. OLDFORD: A. If that is the southern
12 most reaches of the Nagagami Forest then, yes, that is
13 correct.

14 Q. Mozambique Township at least is in
15 the northern most part of the Wawa District. Can you
16 confirm that?

17 A. I would have to see --

18 THE CHAIRMAN: Could you speak up,
19 please, Mr. Edwards, so the reporter can hear you.

20 MR. EDWARDS: Q. Could you confirm that
21 Mozambique Township is in fact where I am pointing
22 on -- that is to say, the northern most

23 MR. GREENWOOD: A. I can confirm that
24 that it is part of Wawa District.

25 Q. Yes, thank you.

1 MR. OLDFORD: A. The line that I would
2 be looking for there, Mr. Chairman, is the line that
3 divides the two FMAs because the Nagagami Forest FMA is
4 an Ontario paper FMA and the wood was designated from
5 that area to flow to the Magpie Forest which is an FMA
6 which supplies the Town of Dubreuilville

7 MR. EDWARDS: Mr. Chairman, there is some
8 real difficulty with these maps here. I think that the
9 picture would be a lot clearer if the Board had an
10 opportunity just to take a peak at Exhibit 30 and a
11 closer look at these two maps.

12 Now, I can get this one right in front of
13 the Board very easily, but these other ones are less
14 mobile. I'm wondering if the Board might --

15 THE CHAIRMAN: All right. Do you want us
16 to have a view of it right now?

17 MR. EDWARDS: Would you mind taking a
18 quick view. It would assist.

19 THE CHAIRMAN: Very well.

20 MR. EDWARDS: Mr. Chairman, would you
21 like to have some commentary as the Board is taking its
22 view?

23 THE CHAIRMAN: Well, I don't know what
24 you want us to look at. We are just comparing the one
25 map, so you've already told us --

1 MR. EDWARDS: If I could just direct the
2 Board's attention, then please, to --

3 MS. BLASTORAH: Mr. Chairman perhaps you
4 could have a microphone.

5 MR. EDWARDS: Mr. Chairman, if I could
6 direct the Board's attention to Oba, Esnagi Lake and
7 Mozambique Township at the northern part of that
8 portion of the Wawa District.

9 The map which would lie immediately north
10 of it is the District of Hearst map which has not as
11 yet been entered as an exhibit and I'm going to ask the
12 Board to enter that as an exhibit in a few moments, if
13 it would.

14 And one can see that there is a large
15 lake called -- usually known as Kabi Lake --

16 MR. HYNARD: Kabinakagami.

17 MR. EDWARDS: Kabinakagami which is
18 directly north really of Oba and Esnagi. And just for
19 the Board's final view and I think this will give you
20 some better understanding of the situation, I invite
21 you to look at the location of the Magpie Forest.

22 MR. FREIDIN: On Exhibit 30.

23 MR. EDWARDS: On Exhibit 30, thank you,
24 and which is listed as Dubreuil Bros. and that is
25 immediately to the south of -- I believe that is the

1 Ontario/Quebec but it is certainly south of the
2 Nagagami Forest.

3 MR. FREIDIN: Dubreuil at least.

4 MR. EDWARDS: Dubreuil is, yes. Thank
5 you, Mr. Chairman. I think that will short circuit a
6 lot of explanation.

7 THE CHAIRMAN: If any of the other
8 parties would like to do the same, please feel free.

9 We might as well enter that District of
10 Hearst map as Exhibit 506.

11 ---EXHIBIT NO. 506: Map depicting District of Hearst.

12 MR. EDWARDS: I might advise that Mr.
13 Mander and I removed that particular copy from the
14 Heart Guidelines -- DLUG book which was previously
15 filed as an exhibit. That is already part of an
16 existing exhibit, but we would ask that it be filed as
17 a separate exhibit.

18 Q. Now, Mr. Greenwood, you would have
19 been involved somewhat, sir, in the initial stages of
20 drafting the timber management plan for the Magpie
21 Forest; would you?

22 MR. GREENWOOD: A. That's correct. When
23 I began work on that plan an FMA hadn't been signed at
24 that point in time and, therefore, it was still the
25 Crown's responsibility to write a plan.

1 We were on a schedule that implied that
2 that plan had to begun and so we again the process as a
3 Crown unit. Subsequently the FMA was signed and the
4 company assumed responsibility for that plan. So the
5 final plan was written and completed by Dubreuil Bros.

6 Q. Sir, I am going to produce and show
7 to you what I am instructed are portions of the timber
8 management plan for the Magpie Forest and I just invite
9 you to make some comment from your knowledge of the
10 situation. (handed)

11 MR. EDWARDS: Copies for the Board
12 members. (handed)

13 THE CHAIRMAN: Thank you. Exhibit 507.

14 ---EXHIBIT NO. 507: Timber Management Plan for the
15 Magpie Forest.

16 MR. EDWARDS: Q. Sir, I am going to
17 direct your attention to particular parts of this
18 photocopy which has just been entered as an exhibit.

19 MR. GREENWOOD: A. Mr. Edwards, I am
20 completely unfamiliar with this particular plan. If
21 there was an implication that I was familiar with it, I
22 was familiar with the 1985 to 1990 plan.

23 From the face sheet of this plan, this is
24 the 1990 to 1995 plan; is it -- I'm sorry, 1989 to
25 2009. The plan I was familiar with was '84 to '89.

1 Q. Well, sir, what I will ask you then
2 is for some -- what your knowledge is of some of the
3 information which would appear to be by way of
4 background in here and I will ask if you are in a
5 position to confirm that it is your understanding of
6 the case.

7 Do you know who Mr. McGillvray is, the
8 Forestry Coordinator for Dubreuil Bros.?

9 A. Yes, I do.

10 Q. And would you know Mr. Rudolph, the
11 District Manager?

12 A. Yes, I do.

13 Q. Mr. Klugman, the Regional Director.

14 A. Yes.

15 Q. And Mr. - I assume it is mister, I
16 don't know - Mr. Isherwood, Director of the Timber
17 Sales Branch?

18 A. That's correct, it is mister.

19 Q. Sir, by way of background I am going
20 to ask you to turn to the second page of this exhibit
21 which is page 49 which refers to be the objectives of
22 the timber management plan for the Magpie Forest.

23 It sets out as objective No. 1:

24 "To management the harvest to produce the
25 maximum volume of sawlog material over

1 the long term for the company mill at
2 Dubreuilville."

3 And, sir, under the heading of The
4 Problem, I am just going to I guess read it into the
5 record and I am going to ask you for your understanding
6 of the nature of the shortfall:

7 "Problem No. 1.1: The saw mill at
8 Dubreuilville requires 530,000 cubic
9 metres of conifer saw timber annually
10 whereas the MAD from the Magpie Forest is
11 expected to yield only 250,000 cubic
12 metres annually for the first 5-year
13 term of this plan. The shortage of wood
14 for both the short term and the long term
15 is the most crucial problem facing
16 the Dubreuil operation, therefore, it is
17 of paramount importance that the
18 company's forest management strategies
19 and operating methods attempt to mitigate
20 the fiber supply problem by maximizing the
21 harvestable volume from the Magpie
22 Forest. The magnitude of the long-term
23 wood supply problem is illustrated in
24 Appendix 4.15.1.1. It is recognized that
25 the MAD will decline steadily and

1 significantly during and beyond this
2 management period and that external fiber
3 supplies will be required to supplant the
4 declining volume available from the
5 Magpie Forest."

6 Now, sir, does that statement of the
7 problem correspond with your understanding of the
8 Magpie Forest?

9 A. No, sir, it does not. I have no
10 understanding of developments since 1984-85. I don't
11 know exactly what is included in the requirement, as
12 stated here; I don't know what is included in the MAD
13 calculation in terms of wood supply, I just -- we are
14 talking five years -- almost four years since I have
15 been on that unit. I don't know what has transpired in
16 these numbers.

17 Q. So the problem wasn't apparent to you
18 in 1985?

19 A. Certainly Dubreuil was utilizing
20 their full allowable cut and that was not - well, it
21 wasn't uncommon either, but there was very little
22 buffer within their (in those days it was allowable
23 cut) maximum allowable depletion for expansion.

24 I know that there were confounding
25 factors such as the wish on the company's part to move

1 their mills from one shift to three shifts and
2 certainly such a move would have a dramatic effect on
3 wood supply.

4 And so, again, there were various factors
5 at play at that time that could have dramatic effect on
6 numbers, and I don't have any idea what has developed
7 since then.

8 Q. Can you confirm that with government
9 assistance the mill has been modernized and expanded to
10 the point that they are now operating two shifts at the
11 mill?

12 A. As I was leaving it was my
13 understanding that the company was going to attempt to
14 move to two shifts.

15 I was aware of the discussions at that
16 point in time and certainly the company's concern that
17 in order to stay viable and competitive they had to do
18 that. But, again, it's memory as to whether they
19 actually moved to a second shift while I was there or
20 after.

21 I really don't -- I can't even confirm
22 that they actually did so.

23 Q. Mr. Clark, from your recent check
24 back, or Mr. Oldford from your knowledge of the
25 circumstances, can you confirm that they are in fact

1 operating on two shifts at this time?

2 MR. OLDFORD: A. I would think, sir, if
3 they weren't operating on two shifts they wouldn't be
4 surviving as a saw mill in Ontario today.

5 Q. Well put. Sir, I am going to invite
6 you to consider Appendix 4.15.1.1 which is again part
7 of this exhibit.

8 MR. FREIDIN: Which page is that?

9 MR. EDWARDS: On the bottom it says page
10 1 but it's in fact page 3 of this exhibit.

11 q. And I am going to draw your attention
12 of the panel members to the second last paragraph on
13 that page which states as follows:

14 "The harvest of the old forest will
15 decline steadily until at year 70 it
16 yields only 77,000 cubic metres per year
17 which is less than 30 per cent of a
18 single shift mill requirement."

19 Mr. Greenwood, would your knowledge of
20 the forest in the Wawa District be such that you could
21 confirm that this information is probably accurate?

22 MR. GREENWOOD: A. Again, I couldn't
23 confirm the numbers. I can confirm in a general way
24 the age-class distribution of that unit was such that
25 there was a gap in the age-class distribution and such

1 a gap would in fact, if you were running a model such
2 as AWOSFOP, show a decline in the MAD at some point in
3 the future.

4 Again, it was the company that prepared
5 that plan -- the 1984 plan that I was involved with and
6 I can't confirm numbers or dates, it has just been too
7 long.

8 But the general concept that a gap in the
9 age-class distribution would result in a decline in
10 woodflow is definitely a factor that was at play on the
11 Magpie Forest.

12 Q. Would you then assume that the
13 following statement from this management plan is also
14 correct, the last sentence in the bottom of that page:

15 "The available wood supply from the years
16 70-110 will average out at about
17 130,000 cubic metres per year which is
18 only 50 per cent of current single shift
19 mill requirements."

20 Would you expect that that statement is
21 likely true?

22 A. Again, in a general way, that after
23 the gap passed through it increased again. Yes, that's
24 my recollection of age-class distribution, that there
25 was wood or area of forest in the younger age-classes

1 and once you were through this gap, then your allowable
2 harvest or allowable depletion would increase again.

3 Q. Would you expect that the statement
4 at the top of next page is likely true:

5 "It would take more than double the
6 planned regeneration effort to provide
7 enough wood to run the mill on a single
8 shift 70 years from now."

9 A. There are a number of scenarios that
10 would allow you - or, I will call them scenarios - that
11 would allow you to start to tackle the problem of this
12 gap in the age-class distribution. One of them would
13 be to accelerate the renewal effort, another one would
14 allow harvesting in younger age-classes.

15 I think, and I am really -- without
16 having read this whole document and having seen it for
17 the first time, it would be my conclusion that the
18 effort that they are talking about here is this
19 accelerated renewal effort in order to bring
20 regeneration on faster and, by that, meaning that it
21 would be available for harvesting at a younger age.

22 If I was to explain it, I guess, a little
23 clearer. They are talking about a gap 70 years from
24 now. If you were to find areas that currently were
25 being renewed at a regular rate and accelerate that so

1 that -- or in fact renew more area now, those areas
2 would be ready to harvest in 70 years.

3 So if you could somehow pack more wood on
4 to the land that's out there that can be renewed and
5 your problem is 70 years from now, that's more wood
6 that would be available 70 years from now.

7 . So that is one of the scenarios that
8 could be examined. And, again, it is not one that I
9 was examining five years ago, but from a general
10 forestry practice perspective, it is a scenario that
11 would make sense or be worth examining if one was
12 looking at a shortage of wood 70 years from now.

13 Jack pine on many sites can reach a
14 merchantable size in 50 years. So this would in fact
15 allow them or give them time, if they acted now, to
16 have wood available 70 years from now.

17 Q. Sir, perhaps what you are commenting
18 on really I think is addressed under Figure 3.

19 I am going to invite you to read that
20 with me, as I read it into the record, and ask for your
21 comment on that, and then I intend to ask you some
22 questions about the impact that this type of planning
23 is having on the development in the district.

24 "In Figure 3, it is assumed that jack
25 pine regeneration will be available for

1 harvesting in 60 years rather than 70
2 and will yield 130..."

3 I assume that -- oh, that's 130:

4 "...cubic metres per hectare at that
5 time. To provide sawlog size material
6 in 60 years will likely require juvenile
7 spacing or thinning treatments..."

8 And if I could stop right there. Mr.
9 Greenwood, would that be in effect the accelerated
10 regeneration, would this be an example of accelerated
11 regeneration as you were describing?

12 A. It would be a way of accelerating
13 growth rate. The accelerated regeneration I was
14 talking about was ensuring that there was no
15 regeneration period following the harvest, a period of
16 of time in which the site has not been renewed. This
17 would accelerate the growth rate once you had renewed
18 the site.

19 Q. Right. And they are looking at jack
20 pine being available in 60 years rather than 70 which
21 is an accelerated time for the harvest; correct?

22 A. 70 years was the natural rotation on
23 that unit. So they are suggesting that with management
24 they could drop the natural rotation by 10 years.

25 Q. "Realistically this scenario

1 represents about the shortest period of
2 time, 60 years, that could be considered
3 for the harvesting of the old forest
4 without creating a gap between the
5 completion of harvest of the old forest
6 and the time when the new forest is
7 harvestable for sawlog material."

8 Would you generally agree with that
9 statement from the timber management plan?

10 A. I am not too sure exactly what they
11 mean. Again, in order to really comment on some of
12 this I would need to examine the rest of the plan and
13 particularly the age-class distribution and the MAD
14 runs.

15 Q. I see. Sir, if I can refer you to
16 the sentence commencing with:

17 "Even following this strategy..."

18 The last paragraph:

19 "...the wood supply which would remain
20 relatively constant from the year 25 to
21 60 would be 35 per cent short of a single
22 shift mill requirements."

23 Now, we are talking about a time frame of
24 as short as 25 years in the future. From your
25 familiarity with the situation in the Wawa District,

1 sir, would you confirm that that statement is likely
2 true?

3 A. Which part of the statement now?

4 Q. "Even following this strategy..."

5 That is to say the accelerated harvest strategies set
6 out:

7 "...the wood supply which would remain
8 relatively constant from the year 25 to
9 60 would be 35 per cent short of a single
10 shift mill requirements."

11 A. Again, I can't comment on that, not
12 without seeing the calculations that they have done and
13 not knowing what they have included in those
14 calculations.

15 THE CHAIRMAN: Well, Mr. Edwards, could
16 we approach this on the basis of perhaps Mr. Greenwood
17 handling your questions based on the assumption that
18 these statements might be correct and then dealing with
19 the impacts that would be visited as a result of that?

20 MR. EDWARDS: I just want to go through
21 about two more of them, Mr. Chairman, and then I am
22 going to try to ask some questions about them.

23 THE CHAIRMAN: It sounds very much like
24 we are going to get the same answer to the same
25 questions, that without looking at the figures behind

1 these statements he won't really be able to comment.

2 MR. EDWARDS: Q. Sir, this plan is
3 approved by Mr. Rudolph, Mr. Klugman and Mr. Isherwood.
4 Do you assume that those three gentlemen have some idea
5 of what they are talking about?

6 MR. GREENWOOD: A. I assume that the
7 plan has been reviewed in order for them to sign it.

8 Q. Well, they do indicate, sir, as
9 follows on the first page of the exhibit, I quote:

10 "I have read this timber management plan
11 and found it satisfactory and consistent
12 with other resource management plans,
13 land use guidelines and/or policies for
14 the area."

15 And the signatures under that are Mr.
16 Rudolph, Mr. Klugman and Mr. Isherwood. Do you assume
17 that they know what they are talking about?

18 MR. OLDFORD: A. Mr. Edwards, as
19 Director of Forest Management Branch I would like to
20 tackle that one, with your permission, sir.

21 Q. Well, certainly, but I would like to
22 have Mr. Greenwood's response to my question first.

23 MR. GREENWOOD: A. Yes.

24 Q. Thank you. All right, Mr. Oldford,
25 you wanted to make some comment, sir?

1 MR. OLDFORD: A. I can assure you that
2 those three gentlemen knew what they were signing and
3 understand the full implications of that plan.

4 I guess what I would like to leave the
5 Board with is the understanding that you are looking at
6 one corner of a very complex puzzle in this case. That
7 mill in Dubrueilville draws from a lot of the
8 surrounding area in addition to the Dubrueilville
9 Forest or the Magpie Forest. It draws from -- it draws
10 wood sources from other FMAs adjacent to that, from the
11 Wawa Crown Management Unit and also from the Nagagami
12 Unit.

13 We are looking a long ways down the road
14 in making some of our projections. As a matter of
15 fact, some of the projections that Mr. Edwards referred
16 to were 14 planning periods down the road, and before
17 all of those plans are rewritten 14 times, the plans
18 for the adjacent FMAs and units will be rewritten and
19 we are going to be dealing with changing technology and
20 we will be dealing with other wood directives, if need
21 be.

22 I guess the fact of the matter is we have
23 got a community in Dubrueilville, we have got a saw
24 mill there that has to have a two shift supply of wood
25 to be able to run economically and we have a Ministry

1 that's committed to find wood resources to supply that
2 mill.

3 And I hope, Mr. Edwards, framing the
4 puzzle a little bit bigger makes it more
5 understandable.

6 MR. MARTEL: Could I ask a question? Why
7 would you, in formulating it this way -- I realize it
8 is just for one FMA, but the three scenarios you use
9 all talk about if they were drawing all of the wood for
10 a single shift rather than just indicating as part of
11 an overall proposal.

12 Why drawing it all as though the wood
13 were coming from one area?

14 MR. OLDFORD: You are asking me a very
15 good question and really to understand the timber
16 management plan and wood supply to a particular mill
17 and, in this case, a particular community, one needs to
18 have a little broader picture, and I appreciate that
19 need, sir.

20 MR. EDWARDS: Q. Mr. Oldford, you do
21 agree, sir, that the Magpie Forest's contribution to
22 the DLUG target is 248,000 cubic metres of conifer and
23 238,000 cubic metres of hardwood annually?

24 MR. OLDFORD: A. The exact figures, Mr.
25 Edwards, I can't confirm. But if they are in that

1 plan, signed by those three gentlemen, they are good
2 figures.

3 Q. The document speaks for itself?

4 A. I would say so.

5 Q. Thank you. Finally, Mr. Greenwood, I
6 would invite you again, sir, to consider the second
7 last paragraph on page -- what is marked as page 3
8 under the heading of Summary. Do you have that, sir?

9 MR. GREENWOOD: A. I have it.

10 Q. Which reads as follows:

11 "Under all three of the scenarios shown
12 in Figures 1 to 3 it would take more than
13 a doubling of the planned regeneration
14 effort to provide a future wood supply
15 sufficient to meet current single shift
16 requirements of the saw mill in
17 Dubrueilville. Even if a doubling of the
18 regeneration effort could be attained,
19 it cannot alleviate the wood supply gap
20 that will continue to grow until such
21 time as regenerated stands are of
22 merchantable size."

23 Do you see that as a fair statement of
24 the problem and dilemma which faces the Dubrueilville
25 mill?

1 A. Again, I think I have tried to say
2 that in -- this is an appendix to a document, I haven't
3 even seen the document. I don't know all of the pieces
4 of information. Just on this page that you have handed
5 me in the second paragraph, they say:

6 "In this forecast of future wood supply
7 it is assumed that areas that regenerate
8 naturally, other than through modified
9 cutting, will not contribute to the
10 future conifer wood supply."

11 Well, that, for instance, is a sentence
12 that I wouldn't agree with totally. Some of the areas
13 that regenerate naturally would not contribute to the
14 conifer supply and some of them could contribute
15 substantially to the conifer wood supply.

16 So there may be a number of assumptions
17 in these figures that I don't agree with, and unless I
18 know all of those assumptions and all of those pieces
19 of information that were input to the final figures, I
20 wouldn't know exactly where to place these numbers and
21 what they mean.

22 Q. Would you assume that the people who
23 wrote this based it on their knowledge of the areas
24 which they knew were going to regenerate naturally or
25 to be allowed to regenerate naturally?

1 A. Yes, yes.

2 Q. Sir, as a result of the fiber supply
3 problem in the Dubrueilville mill - Mr. Oldford perhaps
4 you can help out here - is it your understanding that
5 arrangements were made to transfer some resources of
6 the Nagagami Forest from the Hearst District?

7 MR. OLDFORD: A. That's correct. There
8 was a surplus on the Nagagami Forest and there was a
9 demand at Dubrueilville.

10 Q. Right. And the Nagagami Forest is
11 directly north of Oba and Esnagi Lake just across the
12 boundary; is that correct?

13 A. Yes. I don't know the geography of
14 the north end of the Wawa District as well as I know
15 the Hearst geography, but it is a good description.

16 Q. The Hearst District would also have a
17 timber management plan, sir?

18 A. The Hearst District used to have
19 about three Crown management units and they were formed
20 together into an FMA that is now called the Hearst FMA.

21 Q. Right. There is also a timber
22 management plan for the Nagagami Forest, Hearst
23 District, northern region and Wawa District,
24 northeastern region; is there not?

25 A. There is a timber management plan for

1 the Hearst FMA, for the Nagagami FMA, and for the
2 Magpie FMA. I believe all those plans have been
3 completed and signed.

4 Q. Sir, I am going to produce and show
5 to you what I understand is a portion of the timber
6 management plan for the Nagagami Forest, Hearst
7 District, northern region and Wawa District
8 northeastern region. I just ask you if you are
9 familiar with it?

10 THE CHAIRMAN: Exhibit 508.

11 ---EXHIBIT NO. 508: Portion of the Timber Management
12 Plan for the Nagagami Forest,
13 Hearst District northern region
and Wawa District northeastern
region.

14 MR. EDWARDS: Q. Can you confirm, Mr.
15 Oldford, that at least this facing page would appear to
16 be from the timber management plan as I have described
17 it?

18 MR. OLDFORD: A. Yes.

19 Q. Do you know Mr. McLean, the Limit
20 Forester; Mr. Tomlinson, the General Manager of
21 Ontario Woodlands?

22 A. I know Mr. Tomlinson quite well.

23 Q. And you know Mr. Mason who was then I
24 guess the acting District Manager?

25 A. I know Mr. Mason, Mr. McPhail and Mr.

1 Marcus.

2 Q. Right.

3 THE CHAIRMAN: Mr. Oldford, can you tell
4 us what a limit manager is as opposed to another type
5 of forester?

6 MR. OLDFORD: Well, it would be sort of
7 like a company unit forester. Some companies use the
8 term, sir, area supervisor; some use the company term
9 limit forester and others call them unit forester.

10 THE CHAIRMAN: Thank you.

11 MR. EDWARDS: Q. Sir, attached - there's
12 just two pages from that document - are tables
13 called -- coming from the silvicultural groundrules of
14 the Nagagami FMA.

15 MR. OLDFORD: A. Yes, I see those
16 tables.

17 Q. You are generally familiar with the
18 idea of silvicultural groundrules?

19 A. Yes.

20 Q. Now, are silvicultural groundrules
21 guidelines or are they rules?

22 A. Silvicultural groundrules are
23 groundrules in the plan that govern the silvicultural
24 operations.

25 Q. Are they to be followed?

1 A. Mr. Hynard is currently preparing a
2 management plan, and I am a little bit away from the
3 front line planning activity and he could give you the
4 best answer there, I'm sorry.

5 Q. Dr. Euler can help me out on that?

6 A. Mr. Hynard.

7 Q. Oh Hynard, I'm sorry, Mr. Hynard.

8 MR. HYNARD: A. Silvicultural
9 groundrules are prescriptions, they are statements of
10 prescriptions, the type of forestry practices that are
11 being currently employed under those circumstances.
12 I believe looking from this distance what
13 you handed Gord were the silvicultural groundrules for
14 modified operations and they would refer to the
15 prescription of operations to be conducted within areas
16 of concern.

17 THE CHAIRMAN: But are they mandatory or
18 are they discretionary in their application?

19 MR. HYNARD: My understanding is they are
20 to be followed. They are the prescription of what will
21 occur in that area.

22 MR. GREENWOOD: Part of the confusion
23 here is that we would not now use the word
24 silvicultural groundrules to describe areas of concern.

25 Silvicultural groundrules are the

1 prescriptions which are necessary to carry out the
2 practice of silviculture and would normally be now
3 Table 4.11 in a management plan.

4 4.12 in the timber management planning
5 now is prescriptions for areas of concern, and
6 regardless of the title here, if you look at the actual
7 tables, what is included here are prescriptions for
8 areas of concern. Those prescriptions, once they are
9 in an approved plan, will be mandatory.

10 MR. FREIDIN: You will find that
11 reference, Mr. Chairman, in Exhibit No. 7 at page 67.
12 You will find the heading: Operation Prescriptions in
13 Areas of Concern and you will find Table 4.12 on the
14 following page with that title.

15 MR. EDWARDS: Q. So from 1987 to the
16 time that the Class Environmental Assessment Document
17 was prepared, the silvicultural groundrules for
18 modified operations were changed to become what, Mr.
19 Greenwood?

20 MR. GREENWOOD: A. I don't have the
21 exact title. It would be Operation Prescriptions for
22 Areas of Concern.

23 Q. Operational Prescriptions for Areas
24 of Concern. And we can confirm that those are
25 mandatory in their application?

1 A. Once they are in an approved plan
2 unless it is amended.

3 Q. Thank you. The answer is yes?

4 A. Unless they are amended, yes, and
5 when they are amended, the amended ones would be
6 mandatory.

7 Q. Thank you.

8 Q. Now, can you confirm, sir, that what
9 has in fact happened is that the Dubrueil mill has
10 certainly now the need to access wood to the north of
11 its -- of the Wawa District?

12 Mr. Oldford, perhaps you can -- assuming
13 this is the Nagagami Forest, tradeoffs taking place?

14 MR. OLDFORD: A. I think the way that
15 that question has to be answered is: For a 5-year
16 period in the Nagagami plan there was surplus wood
17 identified in the very southern region in the Nagagami
18 Forest, and given the shortfall of wood from the Magpie
19 Forest or the Dubrueilville mill, it was a very logical
20 thing to do, to offer that surplus to that community.

21 Q. Would it surprise you to know that
22 the people in Dubrueilville and in the Wawa District
23 think it is for 20 years and the people in Hearst think
24 it is for five?

25 A. It wouldn't surprise me at all, sir.

1 One thing that happens, Mr. Chairman, is
2 there are, across northern Ontario, regional boundaries
3 and district boundaries and forest management agreement
4 boundaries and a lot of people only see within the
5 relative boundary that they are inside of, and somebody
6 in the province has to step back and take a moralistic
7 view and say: .

8 Yes, there is a community there that
9 needs wood and it has to draw wood from these various
10 limits around that community.

11 And whoever steps back and makes that
12 decision, Mr. Chairman, obviously takes flack from
13 someone that feels the wood shouldn't fall.

14 Q. Sir, could you confirm that the mill
15 in Dubrueilville is now seeking to access wood to the
16 north of Esnagi Roadways?

17 A. That looks to be in the general area,
18 yes.

19 Q. And the actual map which would show
20 Kabi Lake is the document which has been made -- the
21 first district map which is now...

22 THE CHAIRMAN: That's 506. Would
23 somebody mark that map up there Exhibit 506, please.
24 That one there. Thank you.

25 MR. EDWARDS: Q. Mr. Oldford, were you

1 personally involved, sir, in any of the discussions on
2 the Nagagami transfer?

3 MR. OLDFORD: A. Yes.

4 Q. Would you then be familiar, sir, with
5 any representations that were made to the tourist
6 industry about the nature of the access roads which
7 were to be constructed in this district which are
8 indicated here as being part of Oba Lake and Esnagi
9 Lake?

10 A. Not directly. Representations of
11 that nature were made directly to either the district
12 manager in Wawa or the district manager in Hearst.

13 Q. And would you know that the -- would
14 you be aware, sir, whether there was a representation
15 that winter roads only and winter cut would be the
16 method of access? It is winter road and winter cut.

17 A. I can remember discussions about
18 that, Mr. Edwards, but by the time that that was being
19 resolved I left my job as regional forester in Timmins
20 for the northern region and was working with the
21 Ministry's main office organization, but I agree it was
22 discussed.

23 Q. And in exchange for the
24 representation that winter roads and winter cut would
25 be the methods of accessing the timber, tourist

1 outfitters in the area withdrew any opposition they had
2 to the proposed wood transfer?

3 A. You are asking me a question now that
4 I can't confirm, sir.

5 Q. Are any members of the panel in a
6 position to confirm that?

7 (No response)

8 Sir, I am going to invite you to take a
9 look at the silvicultural groundrules for modified
10 operations which are now prescriptions in the Nagagami
11 Forest.

12 MR. EDWARDS: That's Exhibit 507, I
13 believe, Mr. Chairman.

14 THE CHAIRMAN: That's correct.

15 MR. EDWARDS: Q. If we look at the
16 timber management --

17 THE CHAIRMAN: Actually that would be
18 508.

19 MR. EDWARDS: 508. Thank you very much.

20 Q. I am just going to ask you to take a
21 look at the physical feature of Obakamiga Lake within
22 Mozambique and Lezar Townships.

23 Do you see that, sir, on the second page
24 of that exhibit?

25 MR. OLDFORD: A. Yes.

1 Q. Obakamiga Lake?

2 A. Right.

3 Q. The timber management prescription
4 there, sir, is: Reserve plus winter harvest, access
5 winter roads only. Harvest 200-metre reserve plus
6 additional 200-metre winter cut, no winter roads, plus
7 additional 200-metre winter cut, winter roads only,
8 renewal and maintenance, et cetera.

9 Now, sir, can you explain to me how
10 access can be winter roads only and yet harvest can --
11 seem to talk in terms of reserves and winter roads only
12 within the area of the reserve? Does that make any
13 sense to you?

14 A. In relation to the Dubrueilville
15 operation?

16 Q. Well, yes, specifically if you are
17 able to answer that, but generally as well.

18 A. Because my knowledge of that - and it
19 goes back a little ways right now - but when we were
20 talking about Kabi Lake we were talking about the
21 operations come in from the north end, that was the
22 operations of the Hearst operators and not in relation
23 to the operations that were going to occur in the very
24 south end of the Nagagami Forest which was the
25 Dubrueilville operations. That's my understanding of

1 that.

2 Q. Sir, will you agree with me that this
3 prescription is in fact talking about Mozambique and
4 Lezar Townships and you will recall that Mozambique
5 Township is in fact not even in the Hearst District, it
6 is in the northern part of the Wawa District, and Lezar
7 of course the southernmost Township in the Wawa
8 District?

9 A. That is correct, but is this timber
10 management plan not for the Nagagami Forest, and the
11 Nagagami Forest happens to overlap two district
12 boundaries.

13 And, like I said before, we get these
14 imaginary lines between districts but in the timber
15 management planning process we have to erase them.

16 Q. So that's exactly my point, sir.
17 Kabi Lake is almost entirely in the Hearst District,
18 correct? It is the big lake right behind you on the
19 map there at the very bottom?

20 A. That's correct.

21 Q. So would that then not disagree with
22 your understanding that these prescriptions were --
23 refer only to people accessing from the north?

24 You are -- was there in fact already
25 access coming from the north all the way down into

1 Mozambique Township?

2 A. I guess the thing that I can't see
3 right here is the allocation map to see the exact
4 stands that have been allocated to the Dubrueilville
5 people coming up from the south end, and I think you
6 have to see that map to see what this specifically
7 refers to.

8 Q. It is difficult to get the big
9 picture without --

10 A. Without having the full document
11 right at hand. And I know one thing, sir, that in the
12 development of this plan the district manager at Wawa
13 was very much involved with the district manager at
14 Hearst. There was good consultation back and forth.

15 Q. But you agree with me, sir, that
16 there are access roads proceeding south from Hearst and
17 there are access roads proceeding north from
18 Dubrueilville?

19 A. That's correct.

20 Q. All right. And they are meeting
21 somewhere, perhaps.

22 A. You have qualified that yourself,
23 somewhere perhaps. That is an issue as to whether or
24 not, sir, when the road is going north from
25 Dubrueilville and there is a road coming south from

1 Hearst, if in fact we will allow them at some point in
2 time to connect, because as soon as you allow them to
3 connect, they become a means of travel for people and
4 it is not very long before there are other pressures
5 placed on government to upgrade the roads for probably
6 other purposes than they were originally intended.

7 So that's a decision that I believe will
8 be deferred to further plans and include public
9 consultation and everything else.

10 Q. That type of pressure is a very
11 common thing; isn't it, pressure to...

12 A. Pressure from people, sir, is very
13 common.

14 Q. The pressure to upgrade the roads and
15 to convert them from their original intended use is
16 something that you run into on a daily basis?

17 A. You do run into that in our business,
18 yes.

19 Q. Now, can you confirm, sir, that the
20 tourist outfitters near Oba Lake were told that -- were
21 given a choice of where they wanted the primary road
22 located, west of Esnagi or east of Esnagi. Does
23 anybody know that?

24 MR. GREENWOOD: A. I am not aware of
25 what you are describing, at least not the way you are

1 describing it.

2 Q. My information is that the road was
3 this --

4 MR. FREIDIN: Which plan are you talking
5 about now?

6 MR. EDWARDS: We are talking about the
7 road which is built north from Dubrueilville near Oba
8 Lake. And I know the witness, Mr. Greenwood, has some
9 knowledge of the access problem around Oba Lake.

10 I am just wondering if he has got any
11 recent knowledge as to the location of a primary road.

12 MR. GREENWOOD: A primary road running
13 exactly where, between Oba Lake and Esnagi Lake, or
14 west of Esnagi Lake?

15 MR. EDWARDS: Q. Well, that's the
16 problem as a matter of fact, the choice was one or the
17 other, but now it seems that both are being built or
18 have been built.

19 Are you familiar with that at all,

20 MR. GREENWOOD: A. I'm not at all. In
21 fact, I was involved with the alignment of the road
22 west of Esnagi Lake and it's not my recollection that
23 there was any discussion whatsoever placing either/or.

24 Certainly there were alternatives
25 examined when that first road was put in and one of the

1 alternatives -- maybe I should just again, as Mr.
2 Oldford, give a little broader perspective.

3 There was a large area of wood on the
4 Magpie Forest north of Esnagi Lake and west of Esnagi
5 Lake which was already in a state of degradation.
6 There was concern that access needed to be provided to
7 that area in order to harvest that wood before it
8 declined any further.

9 At that period of time there were various
10 programs to access overmature wood and consideration of
11 that corner of the Magpie Forest which, at that time
12 was the Franz Management Unit, it wasn't even an FMA,
13 were examined and as the forester responsible for
14 management of that area, that was one of the things
15 that I was examining; that there was no access at all
16 in that corner of the unit and yet I can still remember
17 the age-class distribution map, the whole corner of
18 that unit was in a state of older than rotation age.

19 So it was concern that some sort of
20 access be put into this large area of the unit to
21 allows some harvesting to remove that wood.

22 When alternatives were looked at it was
23 recognized that eventually there was this block of wood
24 north of Esnagi Lake that needed to be accessed. One
25 way was to go up -- maybe I should use a map:

1 Just to refresh again, this is Esnagi
2 Lake, this is Oba, two large long lakes running roughly
3 in the same direction southwest to northeast. The
4 boundary of this particular unit takes in Doucette
5 Township, Broughton -- so it comes down and across and
6 works its way down like this.

7 MR. FREIDIN: Which units are you
8 referring to, Mr. Greenwood?

9 MR. GREENWOOD: It was the Franz
10 Management Unit at that time, now the Magpie Forest
11 Management Agreement.

12 So this whole corner of the unit had
13 never been accessed and yet the wood here was quite
14 mature. There was also some other wood which wasn't
15 quite as old -- I'm sorry in Nameigos Township here,
16 but there was a large block of overmature spruce in
17 Mozambique Township. Now, Mozambique Township is where
18 the line between the two units in question comes
19 through.

20 The upper third of Mozambique Township is
21 within the Nagagami FMA, the lower two-thirds was
22 within the Magpie Forest. So in actual fact the wood
23 supply was split between, but it was mature -- the
24 maturity of the wood wasn't related to the line. It
25 was that block of wood, plus this area that was a

1 concern in terms of roading.

2 The initial discussions, therefore, were:

3 Do you go up between the two lakes and come into this
4 mature wood this way, or do you come to the other side
5 of Esnagi - that first way I started was between Oba
6 and Esnagi - or do you come to the west of Esnagi and
7 remove the wood that was here, harvest this overmature
8 wood and then continue further to get the second block
9 of overmature wood.

10 MR. FREIDIN: Just so the record is
11 straight, the first one was going between the two lakes
12 and accessing the area north of Esnagi Lake by that
13 route. And the second one was coming up and going to
14 the area west of Esnagi Lake by going -- having a road
15 running to the south of the lake then moving up the
16 west side of the lake to the northern area -- the area
17 north?

18 MR. GREENWOOD: That's correct. And this
19 was just general strategy in that there were no
20 alignments allocated or even on a map at that point in
21 time.

22 It was recognized that the one road going
23 to the west of Esnagi Lake could access both areas over
24 a period of time and, therefore, we began examining
25 alternatives for the alignment of that road.

1 However, there was no discussion that I
2 am aware of between myself the forester and Oba Lake
3 suggesting that it was an either/or and that if we took
4 'or' there would never ever be a road going up between
5 those two management units.

6 Certainly they were probably aware of the
7 fact that we were weighing the two general strategies,
8 but there was never any connotation that if it went
9 west of Esnagi Lake that there would not at some point
10 in time be a road between the two lakes, because there
11 was also an area of very mature wood directly between
12 the two lakes.

13 And it would sound like, if there is
14 another road going in - and I am doing this from
15 memory - and I am surmizing that what may be happening
16 is that now that they have roaded this area and are
17 moving towards the other mature wood north of Esnagi
18 Lake that they are also -- or have also allocated the
19 overmature wood between the two lakes and a road
20 already exists at the very bottom of that wood, and
21 they would be extending that road to harvest the other
22 mature area just past the end of the road.

23 And in actual fact, while I was there the
24 '84 plan that I was involved in allocated a second area
25 of wood on the opposite side of Oba. So there was

1 already road in order to harvest that area planned
2 going between the two lakes.

3 So certainly the people on Oba Lake who
4 were involved in that planning process were aware that
5 a road already coming up between the two lakes to
6 harvest that area which happened -- well, the plan was
7 underway just after the harvest on the east side of Oba
8 Lake which I described in the other exhibit.

9 So I am not too sure what you mean by
10 them being of the opinion that it was an either/or for
11 that road. The road already was there when I left.

12 MR. EDWARDS: Q. The road is being
13 extended; do you know that, sir?

14 MR. GREENWOOD: A. Is it now?

15 Q. Yes, do you know if it is?

16 A. No, I don't.

17 Q. I see. Sir, was there in fact an
18 access to Oba Lake inadvertently, improperly or would
19 you know that, in violation of some of the
20 prescriptions.

21 Mr. Clark may have found that out when he
22 checked back recently. Did you hear anything about
23 that, sir?

24 MR. CLARK: A. I don't recall having any
25 information on that.

1 MR. GREENWOOD: A. I am sorry, the
2 question: Was it through the harvest that I described,
3 is that what you are asking?

4 Q. Well, I am not quite certain, but my
5 information, sir, is that there was in fact a cut which
6 went closer to Oba Lake than it was supposed to, MNR
7 apparently apologized for it, but nevertheless it still
8 got close to the lake.

9 Would you know anything about that?

10 A. I could say that it was not the
11 harvest that I described. Whether there was a
12 subsequent harvest that did or not, I don't have
13 knowledge.

14 Q. You can confirm, sir, that there were
15 roads which went to the south end of Oba Lake. How
16 close did those roads come?

17 A. If it was the roading program that I
18 described in general on Exhibit 467, the guidelines
19 which you have handed out with respect to that
20 Interrogatory No. 2 for NOTOA, explains that all roads
21 will end or pass at least 1,500 feet from the no-cut
22 reserve on Oba Lake.

23 I am reading from -- under Section 1,
24 this is Procedure: "Harvesting of Oba Lake Block,
25 Section 1 - Roads, subsection (c)", and that was the

1 distance that was negotiated while I was involved with
2 that harvest.

3 Q. Are you referring to the letter, sir,
4 from Mr. Straight?

5 A. That's -- I was referring to the
6 attachment to that letter called Procedure: Harvesting
7 of Oba Lake Block.

8 Q. Right.

9 A. And that plan was adhered to rather
10 rigorously and if in fact this is the area that they
11 are describing then it would be the 1,500 foot distance
12 that we are using.

13 Q. Are you familiar with --

14 MS. BLASTORAH: Mr. Chairman, just for
15 the record we perhaps should indicate that was Exhibit
16 505 Mr. Greenwood was referring to.

17 MR. EDWARDS: Thank you.

18 Q. Sir, are you familiar that there has
19 been a clearcut on the south side of Oba Lake which was
20 supposed to have been a skyline reserve?

21 MR. GREENWOOD: A. Well, I am not too
22 sure what you mean by the south side of Oba Lake. The
23 only harvest that took place on the southeast side of
24 Oba Lake was the one that I was involved with. As I
25 was leaving, the next management plan had an allocation

1 on the -- would be in fact the northwest.

2 Again I will show. The area that I was
3 involved in was this area right here (indicating) so it
4 is at the south end of the lake but on the east side,
5 so the southeast portion of the lake, at the south end
6 of the lake, if you are going to refer to a north and
7 south on the lake, which actually runs northeast to
8 southwest.

9 There was another harvest being
10 proposed - and I am not even sure if it got right to
11 the lake, it may have been some distance back - but it
12 was in the vicinity of the, again at the southeastern
13 end of the lake but now on the north side of the lake
14 and what has happened in that harvest I don't have any
15 knowledge.

16 Q. Would you agree with me, sir, that
17 there have been roads constructed around Oba Lake on
18 what is in effect the southeast side. You confirmed
19 that there was a road down what would amount to be the
20 west or northwest side, though you are not certain how
21 far it was going, and there are in fact roads scheduled
22 to arrive in the north as well?

23 A. I can confirm, as I led in
24 evidence-in-chief, that there was a road program for
25 this portion which was harvested while I was there. I

1 can also confirm that in the plan --

2 Q. Could you indicate for the
3 transcript, sir, what portion you are indicating,
4 please?

5 A. The south -- the harvest on the
6 southeastern side of Oba Lake in Simpson Township.

7 I can also confirm that in the -- in the
8 proposed or approved plan for the period 1984 to 1989,
9 which was the first 5-year term of the Magpie Forest
10 FMA, there was an allocation or at least a proposed
11 allocation on the southwest side of the lake.

12 Q. Can you confirm that roads are
13 approaching in from the north?

14 A. I can't confirm whether roads are
15 approaching in from the north. In fact I -- I am not
16 too sure exactly how that would take place, because the
17 only access from the north would be from companies
18 whose limit ends a third of the way through Mozambique
19 Township, but I am not familiar with all of the aspects
20 of this exchange of timber that was being described.

21 Q. Sir, when you were there had there
22 been --

23 A. I'm sorry, there is one other facet.
24 There is private land in this vicinity and I would need
25 to refer -- memory is coming back - Mosher, a little

1 Town of Mosher which is at that very north end of Oba
2 Lake is within the Township of Martin. The Townships
3 of Martin and Mildred Township are private land and
4 there is a road system at Mosher which in fact crosses
5 Martin and Mildred Townships. And I know that there
6 was some discussion that the company who owns those
7 Townships - and this was just discussion - was
8 considering access that from the north.

9 At the time that I was there, all of the
10 wood harvested in Martin and Mildred was road hauled
11 from Mosher and put on the railway and then railed
12 north on the ACR.

13 Q. Sir, would you be aware of any
14 illegal access which has been gained to Oba Lake as a
15 result of the roads coming as close as they have come
16 to Oba Lake?

17 A. No, I am not.

18 Q. You are not personally aware?

19 A. No. I was on the unit I guess for
20 two years. I would have to check that, but I think
21 approximately two years after this harvest -- the
22 harvest that I described took place. We constantly
23 checked it.

24 I in fact ran into the forester for that
25 particular unit within the last few months, asked him

1 what the situation was there and he said that he had in
2 fact received a complaint from one of the lodge owners
3 on the lake that it was possible that people were
4 getting in through that harvest.

5 He subsequently checked the area and
6 confirmed that that was not the case and imparted that
7 knowledge to me. That is all I know, that from him he,
8 after examining it, found that that was not the case.
9 He also brought to my attention a note from one of the
10 lodge owners on the lake that explained that with
11 regard to other harvesting practices going on in the
12 vicinity of the lake, that that particular lodge owner
13 would like to see the Ministry take the same action to
14 prevent access and deal with reserves that it took on
15 the southeast side of the lake.

16 So my conclusion from talking to him was
17 that the program of reserves and access that we had put
18 in place on the southeast side of the lake was
19 successful.

20 Q. That was the impression that you
21 formed from speaking to this individual. Who is the
22 individual?

23 A. I should know that.

24 Q. You should.

25 A. Rick Narpouli.

1 Q. Oh, Mr. Narpouli. I have in my hand
2 here, sir, about an inch of angry letters from various
3 people, including Mr. Narpouli, but I won't -- I'm not
4 going to introduce them, or try to introduce them
5 obviously in the MNR case.

6 MR. FREIDIN: Don't try to introduce the
7 evidence.

8 MR. EDWARDS: But I am going to
9 introduce just one and I will see if he's familiar with
10 with Mr. Dubrueil's letter. (handed)

11 Q. Sir, I am producing --

12 THE CHAIRMAN: I take it you won't keep
13 us in suspense forever?

14 MR. EDWARDS: No, no. You will hear
15 about that obviously in our case, Mr. Chairman,
16 possibly before the turn of the century.

17 MR. EDWARDS: Q. Sir, I am producing and
18 showing to you a letter under the signature of Gilles
19 Dubrueil, actually it seems to be signed for him.

20 MR. EDWARDS: I'll provide copies to the
21 chair and then move on. (handed)

22 THE CHAIRMAN: This will go in as Exhibit
23 509.

24 ---EXHIBIT NO. 509: Copy of letter from Gilles
25 Dubrueil.

1 MR. EDWARDS: Q. Sir, are you familiar
2 with Mr. Gilles Dubrueil?

3 MR. GREENWOOD: A. Yes, I am.

4 Q. He is the woods manager, at least
5 then he was?

6 A. He has held various positions with
7 Dubrueil Bros. while I was involved with the company.

8 Q. I see. Mr. Dubrueil writes back in
9 1977 which was just prior to your involvement as
10 follows, to one of the tourist outfitters. You know
11 Mrs. LeBrun who is an outfitter on Oba Lake; do you?

12 A. That's correct.

13 Q. Yes. He writes as follows:

14 "Let me assure that we have no present or
15 future plans in regards to building any
16 new roads that would go near or touch on
17 Oba Lake. In any case, the Ministry of
18 Natural Resources would never approve
19 such construction. The roads we now
20 maintain are controlled with regard to
21 Vehicular traffic for safety sake and
22 these roads will remain our control."

23 Subsequent to that letter, did roads get
24 built near Oba Lake?

25 A. Yes.

1 Q. Yes. And would it -- in your recent
2 checks, Mr. Greenwood or Mr. Clark, with how well
3 things are going in the Wawa District, have you been
4 made aware of any requests for bump-up of the timber
5 management plan?

6 A. I haven't been.

7 MR. CLARK: A. I haven't been.

8 Q. Mr. Clark, you have not heard of
9 that?

10 A. No, no, I haven't.

11 MR. GREENWOOD: A. I am curious with
12 respect to this letter. The question you are asking
13 though -- this letter was written at a time when the
14 Crown was responsible for both the writing of the
15 timber management plan, the allocation and delivery of
16 the silvicultural program on this unit, and I am not
17 quite sure what weight a letter from Gilles Dubrueil at
18 that point in time would particularly have given that
19 the control of the allocation and management was in the
20 hands of the Crown and, in fact, a plan was being
21 written at this time.

22 And I am aware of correspondence on our
23 file with -- or the Ministry's file with Mrs. LeBrun at
24 the same time, 1977, over just this issue, a road in
25 the vicinity of Oba Lake.

1 So she certainly was aware of the
2 Ministry's plans in terms of a management plan at that
3 time to allocate that timber and harvest it.

4 Q. She was concerned about that back in
5 1977 and as the pressures have increased for extracting
6 timber from that area, the pressures on Oba Lake have
7 increased as well; have they not?

8 A. I wouldn't state it that way. In
9 1977 a new plan was being formulated for to take effect
10 in 1978 - again if I'm not mistaken - and part of that
11 plan in 1978 was the allocation of the block that I
12 described on the southeast side of Oba Lake.

13 Even prior to the standard procedure that
14 we use now, it was standard procedure in Wawa District
15 no notify concerned people - obviously the people of
16 Oba Lake - of this type of development and it was as a
17 response to that that Mrs. LeBrun started to correspond
18 with us and obviously with Mr. Dubrueil as well about
19 the potential allocation that was going in that area.

20 Q. Has the access resulted in a decline
21 in moose population in the area around Oba Lake?

22 A. I couldn't answer that.

23 Q. Can anybody answer that?

24 A. And I am not too sure what -- how I
25 would bound the area of the vicinity of Oba Lake, it's

1 a large area.

2 Q. What happens if illegal hunt camps
3 are established on a lake which is designated for
4 remote tourism?

5 A. If any illegal building is
6 established and it is discovered, it is removed.

7 Q. I am not talking about a roofed
8 building, I am talking about a camp. What steps would
9 be taken to deal with it?

10 A. I am not too sure how you mean
11 illegal. Mr. Clark may want to help with this, but any
12 member of the public can camp anywhere on public land
13 that they wish. There is no restrictions to camping
14 except a length of time that person can stay in one
15 location.

16 Q. Unlicensed?

17 A. I'm sorry, unlicensed as to what?

18 Q. Persons who are taking another
19 persons for remuneration without any permission.

20 A. If a person is camping on Crown land
21 no licence is required except under the Crown Land
22 Recreation Program

23 Mr. Clark?

24 MR. CLARK: A. Mr. Edwards, you seem to
25 be implying that the operator or operators have

1 exclusive right to the resources, or that particular
2 lake and that's not the case.

3 There is simply, in effect, an indirect
4 allocation of resources because those areas are
5 inaccessible, but it doesn't restrict any other member
6 of the public from using that lake provided they can
7 get to it.

8 MR. GREENWOOD: A. If person owns a
9 fly-in plane they can fly into that lake instead of
10 camping on shore requiring no licence whatsoever in
11 order to set up a camp.

12 Q. But construction of a building would
13 require a permit?

14 MR. CLARK: A. Yes, it would.

15 Q. Okay. Perhaps I was mistaken on
16 that. I see, as I refer to my notes, it was not -- in
17 fact the information I have is that there are illegal
18 hunt camps, buildings that have been built on the lake
19 that the Ministry is taking steps to demolish. Are you
20 familiar with that at all?

21 MR. GREENWOOD: A. I am not. Is the
22 connotation again that that hunt camp was through the
23 harvest that I described, Mr. Edwards?

24 Q. Sir, the information I had was that
25 the bear population is in decline, illegal hunt camps

1 haen created on the lake, there is a decline of
2 tbse population, a trail has been punched through
3 tess the lake and that there are problems
4 asted with the roads that have been built near Oba
5 La

6 A. I guess two things. I would need to
7 kr there is some written information on this, it
8 wcertainly help me in responding to your
9 quns. And the second thing is, I don't know which
10 ha you are describing.

11 If there is a connotation that it is as a
12 reof the harvest which I described, and I think
13 th would be valuable at least for myself, if not
14 thrd, to know whether that is what you are
15 suing.

16 MR. CLARK: A. Mr. Edwards, I'm sitting
17 hequirming and I have been doing so for about the
18 laur and I think that is because I was district
19 ma in Wawa and I think -- I find that the line of
20 quning really unfortunate today because frankly
21 you talking to the wrong people.

22 If you want to find know what is going on
23 in District, I suggest that the most appropriate
24 pecto talk to are the district manager and the unit
25 four involved. And certainly if you want to know

1 what's going on in the district, particularly with
2 respect to timber management planning, the most
3 appropriate source of information is that plan.

4 And I think what you are getting here is
5 sheer speculation simply because none of us have been
6 directly involved involved this particular process in
7 the last two and a half to three years, and I am not
8 trying to be negative in responding this way, I simply
9 feel very strongly that I know from my own experience
10 that it is very important to get the facts, and the
11 facts in this particular reside in the district.

12 And what we are doing is providing a
13 level of speculation that I think is very unfair to the
14 issue that we are discussing here and the result of
15 that is that we are creating a number of illusions in
16 the minds of people that all kinds of problems may
17 occur as a result of unfortunate circumstances that MNR
18 had something to do with.

19 That may or may not be the case, but
20 certainly I want to stress very clearly that we would
21 like to help in this particular instance, but in the
22 absence of having had that material, having an
23 opportunity to review it and know with some certainty
24 the kind of information you want, it is very hard for
25 us to give you meaningful responses that are going to

1 be of assistance involved dealing with the issues that
2 I think relate to remote tourism in Ontario or at least
3 in the area of the undertaking.

4 Q. Sir, I was attempting to use the most
5 specific example that we have at hand and it doesn't --
6 specific examples seem to be few and far between.

7 I just have a couple more questions with
8 respect to Oba Lake and I intend to move on to Exhibit
9 No. 468.

10 MR. FREIDIN: I take it, Mr. Edwards, you
11 will be providing me with all the particulars of your
12 suggestions?

13 MR. EDWARDS: Mr. Freidin, I will provide
14 you with what I am obligated to provide you with
15 throughout this process.

16 MR. FREIDIN: If you are making
17 suggestions in your questions, in my submission, you
18 are obligated to provide me, at least as counsel for
19 the Ministry of Natural Resources, with the facts upon
20 which you are going to rely to support the innuendos in
21 your questions.

22 MR. EDWARDS: Well, I am clearly
23 obligated in our statement which we have got to file
24 with the Board to provide some particularization of the
25 kinds of evidence we intend to adduce.

1 Does Mr. Freidin want to ask these people
2 in re-examination questions that we have already
3 discovered they plain do not know on their evidence.

4 THE CHAIRMAN: No, Mr. Freidin, I think
5 the rules that we have established are, is that Mr.
6 Edwards falls into the categories any of the other
7 witnesses, that when he is going to call evidence of
8 his own, he is going to put in a witness statement
9 ahead of time and he is going to indicate in that
10 witness statement the documents and other material upon
11 which he is going to rely, and clearly indicate the
12 witnesses which he is going to call and the basis for
13 their evidence, so that nobody is surprised when we get
14 here and we don't have to have lengthy delays in order
15 to make sure that people can prepare to answer.

16 MR. FREIDIN: I am just raising a very
17 well-known and long accepted proposition of legal
18 procedure and; that is, if someone in cross-examination
19 is suggesting that a situation is thus and so, that
20 person, when they call their evidence, have an
21 obligation to call the evidence to support the
22 allegations or the innuendo in their cross-examination.

23 THE CHAIRMAN: Maybe in their
24 cross-examination.

25 MR. FREIDIN: And all I am saying is that

1 I am expecting that Mr. Edwards, when he
2 cross-examines, has taken into account that particular
3 well-understood proposition. That's all I am saying.

4 I am not asking for the evidence or any
5 of the facts today or tomorrow for the purposes of
6 re-examination, I just want to make sure Mr. Edwards
7 realizes that there are consequences to the kind of
8 cross-examination that he's leading here today.

9 MR. EDWARDS: Well, I am very
10 appreciative of Mr. Freidin's --

11 THE CHAIRMAN: Just one moment, Mr.
12 Edwards, Mr. Tuer has something to add as well.

13 MR. TUER: Could you sit down so that I
14 may see.

15 MR. EDWARDS: Sorry, Mr. Chairman.

16 MR. TUER: I would remind the Board that
17 direction has come from the Board--

18 THE CHAIRMAN: That's with respect to the
19 industry and complaints against the industry, per se.

20 MR. TUER: --that particulars will be
21 given before the end of the Ministry's case.

22 THE CHAIRMAN: That's right.

23 MR. EDWARDS: Mr. Chairman, I am forever
24 quite cognizant of what my obligations are, I am also
25 quite cognizant of the fact that if evidence is given

1 and totally not challenged in cross-examination, that
2 greatly precludes the right of a party to subsequently
3 adduce evidence which just goes against it.

4 So I am obligated, I feel, to test some
5 of this in cross-examination or I end up with witnesses
6 who obviously - and I'm not blaming them - do not have
7 the most or the best personal knowledge of the
8 circumstances.

9 But please rest assured that we intend to
10 introduce some evidence with respect to this success
11 story of Oba Lake and from the perspective of my
12 clients, we intend introduce evidence with respect to
13 failures.

14 THE CHAIRMAN: Well, listen, gentlemen,
15 we are not going to turn this into a court of law with
16 adherence to the rules of evidence to the extent that
17 they do in the court system.

18 I think the Ministry has been attempting
19 to answer some of these questions, although several of
20 the witnesses have alluded on several occasions to the
21 fact that they weren't in the district at the time,
22 they weren't taking part with the particular plan that
23 you put before us, Mr. Edwards, and they really
24 couldn't provide direct and pertinent evidence to that
25 because the parties that were responsible for the

1 formulation of those plans are not here.

2 They could have replied to many of the
3 questions: We don't know, or we can't answer that
4 question, and just leave it at that.

5 I don't think because they have attempted
6 to provide further information so that you wouldn't
7 draw a complete blank on many of your questions, that
8 it should be held against them, to the extent that when
9 you put in your own case, the Ministry should not be
10 apprised of the basis upon which you are going to be
11 relying.

12 MR. EDWARDS: Oh no, I agree fully with
13 what you just said, Mr. Chairman. I am sorry.

14 MR. CLARK: Mr. Edwards, I am wondering
15 if I could, I would like to provide just a little bit
16 more background information on this issue, perhaps from
17 the perspective of a district manager who looked at it,
18 and this is not anything more than an attempt to
19 basically clarify an issue that was evolving in the
20 district that was reflected in the Oba Lake situation.

21 THE CHAIRMAN: Well, only to the extent,
22 Mr. Clark, that you can testify as to facts that
23 occurred at the time you were there.

24 I mean, again, it doesn't make much sense
25 to get into speculation about what happened after you

1 left the district.

2 MR. CLARK: No, no, no. This is I think
3 a more --

4 MR. EDWARDS: Is this intended to be in
5 response to one of my questions, Mr. Clark?

6 MR. CLARK: Well, I think it is in
7 response to the general issue of what was happening in
8 Oba Lake and why were we addressing it in the way that
9 we did.

10 THE CHAIRMAN: It is up to you, Mr.
11 Edwards, this is your examination.

12 MR. EDWARDS: If it is up to me, let's
13 move on.

14 THE CHAIRMAN: Okay. We will move on,
15 but before we move on, we are going to take a break.

16 MR. EDWARDS: Perhaps I will speak to Mr.
17 Clark during the break.

18 MR. FREIDIN: No you won't.

19 MR. EDWARDS: Oh, that's right. Yes,
20 thank you.

21 THE CHAIRMAN: I'm afraid not. We will
22 be back at four.

23 Thank you.

24 ---Recess taken at 3:40.

25 ---Upon resuming at 4:15 p.m.

1 THE CHAIRMAN: Thank you. Be seated,
2 please.

3 MR. EDWARDS: Mr. Chairman, I have given
4 some thought to Mr. Clark's comments and I spoke
5 briefly with Mr. Freidin and I think my position with
6 respect to his request is that I am not terribly
7 interested, although I don't feel that it will be
8 helpful one way or another.

9 If Mr. Freidin feels it is necessary, he
10 could certainly invite the response and re-examine. I
11 am just going to move on rather than drag this out any
12 longer.

13 I expect that I will have about three
14 more questions relating to the Magpie/Oba area and then
15 I will just move on to one more area of consideration.

16 THE CHAIRMAN: Very well.

17 MR. EDWARDS: I am going to address this
18 to the panel generally. I have some supplementary
19 documentation which I understand is from the Magpie
20 Forest Timber Management Plan, 1989 to 2009.

21 I am going to distribute copies to
22 members who are familiar with the area and then just
23 ask a question about a type of prescription that
24 appears to have been imposed in a reserve.

25 THE CHAIRMAN: Exhibit 510.

1 ---EXHIBIT NO. 510: Supplementary documentation from
2 the Magpie Forest Timber
 Management Plan, 1989 to 2009.

3 MR. EDWARDS: Q. Mr. Clark, I think I am
4 going to address this, if I may, initially to you, sir,
5 because I think you are the person who is most familiar
6 with the Tourism Guidelines.

7 I am going to ask you to consider the
8 second page of this which relates to remote lodge lakes
9 Esnagi, Oba and Kabinakagami in the Magpie area. There
10 appears to be some modifications provided for aesthetic
11 concerns. Do you have that at No. 3 there, sir:

12 "Harvest operations will be modified as
13 follows..."

14 Do you see that?

15 MR. CLARK: A. Yes, I do.

16 Q. And for aesthetics, there is:

17 "120-metre no-cut reserves will be left
18 along the

19 lakeshores, skyline, visible hills, area
20 of

21 concern as shown on the maps..." which
22 neither of us have available to us:

23 "...within which there will be no
24 harvesting

25 visible within 500 metres of the lake and

1 select
2 harvesting of conifer species only in
3 stands that
4 contain a minimum of 40 per cent hardwood
5 content
6 in the skyline area that extends from 500
7 metres
8 to one and a half..."
9 I assume that should be kilometres from the lake. Just
10 generally, sir, I am asking you: Is it anticipated
11 that harvesting will take place inside skyline
12 reserves? Do you expect that this type of prescription
13 would be commonly used?
14 A. Well, I would, first of all, make one
15 distinction. It would be -- let me check the
16 terminology. They first of all talk about a no-cut
17 reserve which is consistent with the definition I used
18 of a reserve in which no operations would take place.
19 Then there is an area -- a skyline area
20 of concern and I make the distinction because, as an
21 area of concern, modified operations can occur. Now,
22 it could have been a skyline reserve, in which case no
23 operations would -- so I am making that distinction
24 because I think it is an important one. If it is a
25 reserve, there are no operations

1 In some instances you will have a skyline
2 reserve with no operations. In other cases, where it
3 is appropriate, you may have a skyline area of concern
4 with modified operations. And the objective in those
5 operations would, of course, be to remove wood, but
6 also to maintain the visual integrity of the stand and
7 the naturalness of the stand as viewed from the lake
8 itself or, for example, from the lodge.

9 And that's a decision that I think that
10 would have to be made on site and it would have to be
11 made by the forester in consultation with the tourist
12 operator.

13 Q. Do you anticipate any difficulty in
14 identifying stands with a minimum of 40 per cent
15 hardwood content?

16 A. I don't think so, but my first
17 reaction would be to go directly to my foresters to
18 ask.

19 Q. My recollection is that Mr. -- I am
20 sorry, is it pronounced Hynard?

21 MR. HYNARD: A. That's right, it is
22 Hynard.

23 Q. You earlier today said it was
24 difficult to identify stands in certain circumstances,
25 and I am just wondering whether there may be

1 difficulty --

2 MR. HYNARD: A. I said that?

3 Q. My recollection -- or I made a note,
4 sir, that in some comment today you indicated that it
5 might be difficult to identify a stand.

6 A. Well, with regard to --

7 Q. Not in this context--

8 A. Thank you.

9 Q. --but just as an instructive comment.

10 A. I don't recall having said that. But
11 with regard to your question here, would it be
12 difficult to identify 40 per cent hardwood and greater,
13 the answer is no, it wouldn't. It would be possible to
14 do that, first of all, on the FRI maps which do show
15 species composition and, secondly, to confirm that with
16 air photointerpretation. It would be quite easy.

17 Q. Do you anticipate then, Mr. Clark,
18 that this type of provision for a skyline area of
19 concern with some harvesting inside of it will be a
20 regularly used tool?

21 MR. CLARK: A. My answer would be, if it
22 can be demonstrated to be effective, and I would say,
23 yes, it would.

24 Q. Is the concept of a skyline area of
25 concern referred to in the Tourism Guidelines?

1 A. I think they talk -- if you will wait
2 just a minute I will have to refer specifically to the
3 document.

4 I don't believe that -- there is a
5 section on pages 38 and 39 under Concepts dealing with
6 reserves, and in that particular example they talk
7 strictly about a variable with reserve and there is no
8 specific reference to modifying operations within the
9 reserve.

10 However, if the objective was to maintain
11 the visual integrity of the shoreline and if the value
12 that you were trying to protect was in effect within
13 the skyline area, if you can demonstrate that you could
14 do so and have modified operations in that area, I
15 don't think that the guidelines preclude that.

16 I think earlier on in one of the
17 diagrams, I think it was on page 10, in an area of
18 concern you could have no operations; that is a
19 reserve, modified operations or normal operations.

20 THE CHAIRMAN: Mr. Clark, how would
21 somebody looking at the plan tell if there was a
22 skyline reserve delineated, whether or not there is
23 going to be any kind of modified harvest? Would you
24 have to go then to the operating plan?

25 MR. CLARK: Well, it would be -- yes, I

1 mean, the prescription would be in the plan. So that
2 if, for example, on a lake you identified either all or
3 a portion of the shoreline where you wanted to protect
4 the scenic values or the visual integrity of the
5 shoreline, that would be identified first as a value
6 then as an area of concern.

7 It would then find its way into the area
8 of concern planning process and that material would all
9 be documented on Table 4.12 in the planning document.
10 So that if you or I were going to see that plan and we
11 went to a particular lake, we would be available to
12 identify where the modification would occur and
13 specifically what prescriptions had been identified for
14 that site.

15 THE CHAIRMAN: And it would tell you
16 clearly that there could be harvesting in that skyline
17 reserve?

18 MR. CLARK: Yes, absolutely.

19 THE CHAIRMAN: Okay.

20 MR. CLARK: The other point I would make
21 is that normal cases where you were dealing with this,
22 particularly on tourist lakes, the major -- the people
23 directly involved in that would always be party to the
24 decision; it wouldn't be a decision we or the planning
25 team would make in the absence of having discussed it

1 with them.

2 THE CHAIRMAN: But where there was a
3 disagreement between the various interests, such as the
4 industry that needed the wood and wanted to harvest,
5 the Ministry that wanted to make sure that it took into
6 account some of the other values, and the tourist
7 operator that maybe would want to leave the skyline
8 reserve a cut no-cut area, who would make the
9 ultimate --

10 MR. CLARK: The Ministry of Natural
11 Resources is the approver of the plan.

12 THE CHAIRMAN: Right. So it is not
13 always on consensus, you may have to --

14 MR. CLARK: No, it certainly isn't, and
15 I -- you know, we stress collaboration, we stress
16 consensus, but there is a bottom line in these
17 situations and that's an issue that we have to deal
18 with regularly.

19 MR. EDWARDS: Q. Just one final question
20 with respect to a document relating to the Magpie
21 Forest. I am producing and showing to you a memorandum
22 to Mr. Rudolph, the District Manager of Wawa, dated
23 February 2nd of 1988 which appears -- which has some
24 approval or some terms of reference attached to it.
25 (handed)

1 THE CHAIRMAN: Thank you. Exhibit 511.

2 ---EXHIBIT NO. 511: Memorandum to Mr. Rudolph, the
3 District Manager of Wawa, dated
4 February 2, 1988, with terms of
reference attached.

5 MR. EDWARDS: Q. This is a fairly
6 lengthy document, Mr. Clark, and I don't intend to ask
7 you a lot of questions about it. I guess it pretty
8 much speaks for itself.

9 But I do have a particular question with
10 respect to the duties of the team members which are set
11 out at page 2, Planning Team Responsibilities, and I
12 note at page 1 that the members of the team are set
13 out.

14 Do you have that, sir: Mr. McGillvary,
15 Mr. Thompson, Mr. McWaters, et cetera?

16 MR. CLARK: A. Right.

17 Q. I assume you know many of those
18 individuals?

19 A. I know several of them.

20 Q. Do you know Mr. Payne, the tourism
21 industry consultant?

22 A. John Payne I know, yes.

23 Q. He is the advisor?

24 A. Yes.

25 Q. And one of the responsibilities of

1 the planning team would be to identify areas of
2 concern. That's set out very specifically on page 2.
3 Would you agree with that?

4 A. Yes, I am just looking for the
5 specific reference here.

6 Q. I have one -- the fifth one from the
7 bottom under sub (a): "Identifies areas of concern."

8 A. Correct.

9 Q. You see that. And just the two above
10 that:

11 "Develops course of action designed to
12 resolve problems and issues (e.g. areas
13 of concern) which affect the achievement
14 of the objectives and targets."

15 Do you see that as well?

16 A. Yes, I do.

17 Q. Just specifically with respect to
18 this particular timber management planning team, is
19 there anybody on the panel who knows how many meetings
20 of the panel or the planning team that Mr. Payne
21 attended?

22 A. I don't.

23 Q. Any member of the panel know that?

24 MR. GREENWOOD: A. No, I don't.

25 Q. I would like to ask, Mr. Clark, some

1 questions relating to the exhibit, I believe it is 468,
2 just behind you or behind Dr. Allin and Mr. Greenwood.
3 This is your hypothetical of a roadside operation and a
4 fly-in operation?

5 MR. CLARK: A. That's correct.

6 Q. I noticed, sir, in your statement of
7 the type of evidence that would be given in this panel,
8 paragraphs 54 and 55 of the statement of evidence set
9 out the type of effects, and I am just going to ask you
10 whether you see this as a specific example, a specific
11 hypothetical of your general propositions. Paragraph
12 54 --

13 A. I am not just sure where you are
14 reading from here now.

15 Q. I am reading from statement of issues
16 filed with this -- pardon me, statement of evidence,
17 Panel 10.

18 A. Okay.

19 Q. And I will just read it slowly so you
20 can follow along with me.

21 THE CHAIRMAN: That is 416A, the witness
22 statement?

23 MS. BLASTORAH: Is that Volume I or
24 Volume II?

25 MR. EDWARDS: I am referring to

1 paragraphs 54 and 55.

2 MR. FREIDIN: It starts on page 47 of the
3 first volume, Mr. Chairman -- page 56, Volume I.

4 THE CHAIRMAN: Thank you.

5 MR. EDWARDS: Mr. Chairman, excuse us for
6 a moment, we are just confirming that our copies are
7 identical.

8 Q. Yes. Paragraph 54, sir, cites you as
9 the authority for the propositions therein contained.
10 Did you write it?

11 MR. CLARK: A. Yes, I did.

12 Q. And it states:

13 "Timber harvesting can result in varying
14 degrees of socio-economic effects that
15 can be either large or small, positive or
16 negative, short or long-term and locally
17 or extensively based. These effects may
18 occur directly (e.g. creation of jobs,
19 production of pulpwood or sawlogs) or
20 indirectly through effects, primarily on
21 the aquatic and terrestrial environment."

22 Following in paragraph 55:

23 "There are invariably different
24 perspectives, levels of understanding and
25 agreement on the socio-economic effects

1 of harvesting operations. Accordingly,
2 the potential effects of harvesting on
3 the socio-economic environment can be
4 described in terms of values and concerns
5 of a variety of stakeholder groups (e.g.
6 trappers, cottagers, mining industry).
7 What may be a positive effect to one
8 stakeholder group may be viewed
9 negatively by others."

10 Now, is the example which you gave in
11 your testimony, Exhibit 468, intended to be a specific
12 example of the general propositions that you set out in
13 paragraphs 54 and 55?

14 A.. Well, the example that I gave was --
15 I am just trying to recall now. The example was given
16 in order to demonstrate that timber harvest operations
17 and associated access, the effects of those activities
18 can vary depending on the nature of the tourist
19 establishment you are dealing with. And I was making a
20 distinction between a remote tourist establishment on
21 the one hand, versus a road-accessible establishment on
22 the other.

23 . And basically much of what I was saying
24 there does apply, and I made the point simply that, in
25 some instances, the remote tourist facility may --

1 there may be some disbenefits associated with these
2 activities and the example I used pointed out some of
3 the potential effects or problems that might occur.
4 And, on the other hand, the road-accessible facility in
5 some instances might benefit.

6 And it was simply an example to point out
7 that relationship, but I think it also does highlight
8 some of the relationships that are identified in those
9 two paragraphs.

10 Q. I see. And you confirmed today that
11 those two paragraphs represent your assessment of the
12 economic impact of harvest?

13 A. Well, they don't -- they simply
14 summarize certain of the relationships that I thought
15 were important to understand when you reviewed the
16 tables that I included in my evidence.

17 I think the point I was making was that
18 there are a large number of stakeholder groups, they
19 can be affected in a variety of ways and in a variety
20 of different ways, and depending on their particular
21 values and concerns they may view these effects as
22 either positive or negative, and the same effect may be
23 viewed by one group as positive and negative by
24 another.

25 Q. Sir, when you gave that example, was

1 there any reason that you used a hypothetical rather
2 than an actual case?

3 A. Oh absolutely. I gave one at Oba
4 Lake and I gave one that was hypothetical. And I think
5 in the hypothetical I was trying to distill some of the
6 issues so that they were easier to understand. I think
7 when you get in to, for example, the Oba Lake
8 situation, which we did, the water very quickly becomes
9 muddy and it is sometimes difficult to focus on the
10 issues that we are dealing with.

11 So on this particular example I distilled
12 some of my background into this particular example.

13 Q. Well, sir, when you wanted to make
14 that type of example did you call upon any
15 authoritative literature in the field to back you up?

16 A. I drew on my own experience and the
17 experience of other people in the Ministry.

18 Q. Did you make reference to any papers
19 or learned articles which have studied the relative
20 impacts of -- or the relative economic impacts of the
21 type of hypothetical that you have given us?

22 A. No. I think earlier on in the
23 evidence I -- it was based strictly on the school of
24 hard knocks, it's having been there and seen this kind
25 of situation develop.

1 Q. I see. Sir, in Panel 7, I understand
2 that you were qualified as an expert on resource
3 management. I see that you have a Master's Degree in
4 Geography from the University of Waterloo; is that
5 correct?

6 A. That's correct.

7 Q. You obtained that in 1972?

8 A. '75 I think.

9 Q. It says you attended in 1970-72.

10 A. That's right, and I finished by
11 thesis in 1974 or -5.

12 Q. Well, you are well ahead of me
13 anyway, I still haven't got mine done.

14 Sir, but I see that you have worked for a
15 period of three months in 1979 and '80 on the Committee
16 on Forest Access Roads and Tourist Outpost Camps for
17 the Ministry; correct?

18 A. Yes, that's correct.

19 Q. And a further period of three months
20 on Parks Promotion and Revenue Generation, the
21 subcommittee?

22 A. That's correct.

23 Q. And I suppose those six -- that
24 six-month period would have some relationship to the
25 study of economic impact on tourism; would it?

1 A. Well, I guess indirectly. We were
2 dealing with ways of promoting a form of tourism which
3 was the provincial park system.

4 Q. And I see that you worked in 1981 and
5 '82 on the Lady Evelyn Smooth Water Wilderness Park,
6 Socio-Economic Impact Analysis for the Ministry?

7 A. That's correct.

8 Q. But, sir, going through the rest of
9 your career with the Ministry from 1973 to date, I
10 don't see any other particular training or dealing with
11 the issues of economic impact. Are you suggesting that
12 you have other expertise in that field?

13 A. Well, my --

14 Q. Other experience, pardon me, in that
15 field?

16 A. Well, I certainly have lots of
17 experience in that field because I think throughout my
18 career I have had to deal with issues that relate to
19 the question of making tradeoffs and I think I
20 identified in my CV that my particular area of
21 interest, and I guess background in the Ministry, has
22 been IRM and conflict resolution.

23 And there is no doubt that if that you
24 look strictly at my academic training I will be found
25 wanting, if you are looking for an economist; if you

1 are looking at somebody who has a fairly good working
2 knowledge of the resource, the variety of shareholders
3 that we have to deal with, with the resource fields
4 that we deal with and with the issues that are relevant
5 to those groups, I think my background is fairly
6 comprehensive.

7 Q. I see you have made one publication,
8 sir, on Prescribing Carrying Capacity Standards for
9 Wildland Areas - Bridging the Gap Between Policy and
10 Management?

11 A. That's right.

12 Q. Did that have anything to do with
13 economic impact?

14 A. Not directly, except to the extent
15 that it was trying to identify the parameters that
16 would define a high quality wilderness experience and
17 presumably that would attract people, much the same as
18 we do with tourist outfitters on tourism lakes.

19 Q. Let's talk about the high class
20 wilderness experience. Sir, would you agree with me
21 that what persons in the tourist industry sell is an
22 opportunity, an opportunity to hunt or an opportunity
23 to fish or an opportunity to experience that
24 wilderness, for example?

25 A. I think that's -- certainly those are

1 important elements in the experience.

2 Q. Right. And an element -- or those
3 elements can be sold in a package, and some of those --
4 you can package the opportunity so that somebody pays
5 \$1,000 for it or the opportunity can be packaged so
6 that somebody pays \$50 for it?

7 A. Oh, I couldn't agree more.

8 Q. And is it not part of the Ministry's
9 policy to encourage investment by outfitters in, for
10 want of a more elegant term, higher class operations?

11 A. Well, we would definitely encourage
12 that kind of a strategy where the emphasis is on the
13 production of a quality experience.

14 Q. And the quality experience would
15 obviously generate more income in terms of more job
16 potential; would it?

17 A. I would hope so, yes.

18 Q. Have a greater economic spinoff than
19 the \$50 experience?

20 A. Yes.

21 Q. Now, sir, what I took from your
22 hypothetical was that you believe that really the
23 benefit to one operator would effectively be set off by
24 the detriment to the other operator, but things would
25 tend to balance out.

1 Is that what you intended to say?

2 A. Well, that really wasn't -- I don't
3 think that was the message and I certainly wouldn't
4 want to leave you with that impression.

5 The message simply was that in some
6 instances one form of tourism benefits and another may
7 lose. There may be a change in the distribution of
8 benefits. I was not making any kind of a judgment
9 about the appropriateness of that happening. That is a
10 decision, however, that does have to be made in the
11 context of timber management planning and in the
12 broader context of tourism generally.

13 Q. Sir, the evidence that you gave on
14 that point, however, was purely speculative?

15 A. Well, to the extent that it was a
16 hypothetical example, I was simply pointing out that
17 given the occurrence of a certain number of factors
18 this is what might happen and, in fact, has happened in
19 certain situations, I am sure.

20 Q. Are you aware of any studies or
21 examples which would back up your hypothetical, sir,
22 published by anybody?

23 A. No, I am not.

24 Q. Do you have any statistical basis for
25 your opinion?

1 A. Just let me get this straight. When
2 you talk about about my opinion, my opinion was that -
3 I almost feel like I should briefly describe this
4 again - but my opinion was that with additional road
5 access there may be certain -- certain problems may
6 arise with respect to remote tourism that may diminish
7 the quality of the experience or the ability of the
8 operators to provide a high quality product.

9 And at the same time it may, on the other
10 hand, provide additional opportunities for a variety of
11 other entrepreneurs.

12 Q. Sir, the particular example you used
13 was a roadside person who was described at page 13758
14 as a "gas station outfitter".

15 A. Correct.

16 Q. Now, would it be realistic to expect
17 that that type of operation; that is to say, somebody
18 who runs a gas station and sells some fishing lures and
19 some fishing licences and perhaps a bit more, would
20 even qualify, for example, for moose tags?

21 A. I can't say just offhand and I am
22 certainly -- I want to stress again, I was not making a
23 judgment about the appropriateness of one form of
24 tourism over another, I was simply pointing out that,
25 in some instances, to make the point that the effects

1 are variable and depending on the nature of the
2 operation. That is all I was saying.

3 Q. Well, the point I am getting at, sir,
4 is this: Would you not agree that it is more likely
5 that there is going to be more economic harm to the
6 tourist industry in the situation you have described,
7 than economic benefit on balance?

8 A. Well, I want to stress the word we
9 used earlier which is potential effect. I made it very
10 clear when I presented that evidence that these were a
11 number of potential effects that might occur, but I
12 also pointed out that there were a variety of measures
13 that could be taken to prevent or mitigate those
14 effects and that we are not always left with a
15 situation where one group wins and the other loses.

16 We are often, I think, left with the
17 situation where, through some degree of compromise and
18 a combination, both parties in effect optimize benefits
19 which I think is what we are striving for in this
20 particular process.

21 Q. Well, the thrust of your evidence in
22 your hypothetical however was to suggest that one
23 tourist outfitter would lose, the other one would gain,
24 and things would tend to be -- the economic impact
25 would tend to be neutral.

1 A. Yes, but as I stressed before - and I
2 can't say this strongly enough - it was simply to point
3 out to my own counsel that the difference between the
4 effect would vary depending on the nature of the
5 operation.

6 It was not because I was suggesting that
7 one -- it was not, for example, that -- I was simply
8 not suggesting that that was necessarily a desirable
9 end, that simply redistributing benefits was
10 acceptable.

11 Maybe -- if I may, I would like to --
12 maybe I could move my map up here, I won't be long, but
13 I can...

14 THE CHAIRMAN: Other than showing, Mr.
15 Edwards, that a particular effect might be viewed as
16 positive by one operator and negative by another, I
17 mean, is not that more or less reality in this type of
18 situation; it is not going to benefit obviously
19 everybody equally and it won't always be a benefit to
20 everybody within a particular client group.

21 MR. EDWARDS: It would be my
22 understanding, Mr. Chairman, that it is more likely
23 that the net economic benefit is going to be less if
24 the type of situation that Mr. Clark has described
25 occurs. And I just wanted to see what his grounds are

1 for suggesting that it would be, in effect, sort of
2 revenue neutral for the tourism industry.

3 THE CHAIRMAN: Well, couldn't it be one
4 of three things: It could be a net gain, a net
5 disbenefit, or neutral. I mean, wouldn't you assume
6 just generally, without going to a specific example,
7 that those three possibilities are there?

8 MR. EDWARDS: I would assume the three
9 possibilities are there. I would assume that it is far
10 more likely that a particular one of those three would
11 be the case and I believe that the evidence the witness
12 has been to the effect that it is revenue neutral, and
13 I just don't --

14 MR. FREIDIN: I don't think that was his
15 evidence.

16 MR. CLARK: Perhaps I can clarify this.
17 Let me start at the beginning.

18 The purpose in doing this was simply to
19 point out that when we have harvest and associated
20 access there are effects and the effects vary depending
21 upon the nature of the tourism operation you are
22 dealing with.

23 In the scenario that I developed was a
24 situation where you have a road -- a highway like
25 Highway 17 running from east to west, you have a road

1 running north to a small community of say a thousand or
2 1,200 people, and the primary employer in that
3 community is a saw mill.

4 That saw mill receives its wood from the
5 surrounding area and, somewhat like you had in the Oba
6 situation, the companies are moving north and as they
7 move north they come into contact with a variety of .
8 lakes and so if, for example, the decision is made
9 through timber management planning to extend a road
10 north, a series of potential effects may occur, and
11 these are the effects that we would look at in the
12 context of timber management planning. And we are
13 getting into access here. The reasoning we are getting
14 to access is because we want to harvest wood.

15 Now, in this particular scenario, when we
16 got into the whole issue of what the effects would be
17 in the planning process, we would have to look at what
18 the potential effects would be on a variety of
19 stakeholder groups. One of the stakeholder groups
20 would be the tourist operator who is on this fairly
21 large, say, 40-mile long lake that is a high quality
22 pickerel fishery and who makes his income through
23 fishermen, providing a high quality -- it is an
24 inaccessible lake, remote fishing, and it's
25 supplemented by moose hunting in the fall.

1 There are, however, other actors; there
2 is the residents in the town who are members of the
3 local rod and gun club, and there are a variety of
4 other -- probably in many instances, small
5 entrepreneurs who may also be affected by the decision.

6 Now, all I said is that if you build this
7 road you may find a situation where, for one thing, you
8 are putting access into the country generally and even
9 if you are five miles away from the lake which would
10 make it virtually inaccessible, there is always some
11 leakage in the nature of the country here changes.

12 And, for example, one of the changes
13 would be that moose hunters would probably travel
14 north, because once they heard about the area, they
15 would be encouraged to go there, they would drive north
16 and they would hunt in this particular area here for
17 example. And that might also be the area where the
18 tourist operator had hunted. And there is a "potential
19 effect"
20 there.

21 There maybe a user conflict, there could
22 be a local effect on the moose population which could
23 affect the quality of his operation. These are all
24 potentials at this point.

25 On the other hand, the operator down here

1 who, I think to use your words, may not provide as high
2 a quality experience, may service a lot more people and
3 he may be able to provide them with food and gas and a
4 variety of other services to meet their needs if they
5 are going north.

6 So really what I was saying here is, the
7 benefits vary and there is no doubt in this particular
8 situation, if we were looking at it in the context of
9 timber management planning, a potential effect that we
10 would be concerned about - and no doubt the operator on
11 that lake would be concerned about - would be the loss
12 of his -- a reduction in the quality of the experience
13 that he could provide his clients.

14 On the other hand down here, this person
15 and the residents here who feel it is their inalienable
16 right to hunt and fish in this area would think it was
17 a marvelous opportunity and would all go out and buy
18 bait and fishing rods and hipweighters and head on up
19 the road.

20 So I am not making a value judgment at
21 this point. I guess where the value judgment has to be
22 made is in the timber management planning process and
23 that gets back into the heart of how we make decisions
24 about these kinds of issues, and we have to look at
25 pre-existing obligations, we have to look at the plans

1 that apply to this particular area, we have to try and
2 find out what the objectives, for example, for remote
3 tourism are in this particular area or, indeed, the
4 province as a whole that might allow us to start making
5 some determinations about the significance of this
6 particular operation and its value. Likewise we would
7 also have to look at the concerns of all the other
8 people as well.

9 Now, that was the context within which I
10 presented that material originally.

11 MR. EDWARDS: Q. Sir, would you not
12 agree that the remote resort prior to being accessed
13 would generate more dollars for the economy - and I
14 don't know what unit I'm going to put - per square
15 moose, per square fish?

16 MR. CLARK: A. I can't say right off the
17 top. I don't think there is any doubt that if you put
18 a really high quality operation and you provide a very
19 high quality experience you can probably charge a
20 significant amount of money for it.

21 Q. And that is with a -- what you are
22 dealing with is a finite or, at least a limited
23 resource; correct?

24 A. That's correct. But I think you have
25 got to be very careful when you start talking this way

1 because I think you have to start talking about the mix
2 of tourism opportunities that you want in a particular
3 area. And that requires that you make some
4 determination about what your objectives are for
5 tourism in the province as a whole and what you are
6 trying to achieve.

7 And so that every time you deal with an
8 issue of, for example, the question as it relates to
9 remote tourism: How much of it do you want, where do
10 you want it, how do you want that to be mixed with
11 other tourism opportunities like road -- high quality,
12 road-accessible lodges and a variety of other
13 opportunities as well.

14 So that when you look at a decision that
15 relates to that remote operator you have to make a lot
16 of considerations before you make a final determination
17 as to what the most appropriate action would be.

18 Q. And your evidence would be that that
19 type of micro-consideration should take place in the
20 timber management planning process?

21 A. Well, that is the process -- you
22 know, the process is there in order to provide the
23 various stakeholders who have an interest in those
24 decisions to provide input and to be involved in the
25 development of alternatives, weighing of alternatives

1 and reaching agreement on what an appropriate solution
2 would be.

3 Q. Well, sir, thank you for your
4 opinion.

5 MR. EDWARDS: Mr. Chairman, if I may just
6 have a minute, please.

7 Thank you, members of the panel. Those
8 are my questions.

9 Thank you, Mr. Chairman.

10 THE CHAIRMAN: Thank you, Mr. Edwards.

11 Very well, ladies and gentlemen, I think
12 we will adjourn for the day and we will commence
13 tomorrow at 9:00 a.m.

14 We have the Anglers & Hunters, Mr. Hanna,
15 teeing off first thing in the morning. We are advised
16 today that they are now estimating four days for
17 cross-examination, up from three days, as of the last
18 update that we have had but, of course, Mr. Hanna is
19 not here so we can't delve into why the lengthier
20 examination, but we will deal with that as it comes in.

21 Obviously we won't finish this week with
22 the Anglers & Hunters and we will probably go into a
23 good part of the week when we come back on the 24th,
24 and we have some other matters to deal with when we
25 come back as well, so..

1 Mr. Freidin -- Ms. Blastorah?

2 MS. BLASTORAH: Mr. Chairman, I just have
3 some hard copies of photographs that we had promised
4 earlier during the evidence-in-chief.

5 Firstly, I have a package of photographs
6 from Panel 9 which are photographs -- these are
7 pictures of Partridge Lake which were shown and
8 discussed by Mr. Armson during his evidence.

9 MR. FREIDIN: They are the ones that were
10 taken by Mr. Hynard.

11 THE CHAIRMAN: I can't recall, did we
12 give them a number?

13 MS. BLASTORAH: I don't think so.

14 THE CHAIRMAN: We don't have the same
15 hearing books with us, we are into different hearing
16 books so we can't even check back that far.

17 MR. HYNARD: My recollection is they were
18 given a number. I don't know the number.

19 MS. BLASTORAH: Mr. Chairman --

20 THE CHAIRMAN: I'll tell you what: Why
21 don't you overnight see if they have been and then
22 perhaps we can put them in first thing in the morning.

23 MS. BLASTORAH: Okay. Perhaps what I
24 will do then is mark the other package now and I will
25 hold that one for the time being. The other package is

1 from Panel 10 and it's from Mr. Greenwood's evidence
2 and it is a series of photographs on HARO I believe.

3 Mr. Greenwood, perhaps you could indicate
4 what these are; that is what the package is marked, but
5 I don't know who marked that.

6 MR. GREENWOOD: They were a series of
7 photographs that came from the Harvesting and
8 Regeneration Option Manual and I used them as part of
9 my slide presentation.

10 MS. BLASTORAH: These were not
11 photographs that were included in the witness statement
12 and so they were not given a number at the time, as I
13 recall.

14 MR. GREENWOOD: Could I examine them?

15 MS. BLASTORAH: Perhaps I should have
16 held them all until tomorrow, Mr. Chairman.

17 MR. GREENWOOD: These were slides that
18 were part of the witness statement, but there was some
19 difficulty getting them reproduced in that they were
20 not slides to begin with they were prints and we had to
21 have extra prints made from them.

22 So they were part of the witness
23 statement, but they were taken from the Harvesting and
24 Regeneration Option Manual.

25 MS. BLASTORAH: Oh, I understand. So I

1 suppose in that case, Mr. Chairman, there is no reason
2 to give them a separate exhibit number, they are part
3 of the witness statement. These were just a hard copy
4 that we had promised to the Board. And I will check on
5 the Panel 9 photographs for tomorrow morning.

6 THE CHAIRMAN: Okay. While you are doing
7 that, if they are part of the witness statement, would
8 you mark the appropriate numbers --

9 MS. BLASTORAH: They are marked, Mr.
10 Chairman.

11 THE CHAIRMAN: Oh, they are marked on the
12 back. Okay. Very well, we will deal with the other
13 ones tomorrow then.

14 Mr. Freidin?

15 MR. FREIDIN: Mr. Chairman, as you
16 suspect, Panel 11 is going to follow Panel 10.

17 THE CHAIRMAN: That doesn't necessarily
18 follow, not in this case.

19 MR. FREIDIN: Mr. Greenwood, Dr. Allin,
20 Mr. Clark and Mr. Hynard are witnesses on Panel No. 11.
21 Those witnesses for Panel No. 11 have not been prepared
22 for Panel No. 11 and I would like permission from the
23 Board for counsel to speak to those four witnesses
24 between now and the end of this cross-examination for
25 the purposes of preparing them for Panel No. 11.

1 I can quite clearly state that I
2 understand the importance of not discussing their
3 evidence and that will be kept at the forefront of our
4 minds and we will attempt and I think we will be
5 professional and act in a proper way in terms of that
6 particular instruction that is common when a witness is
7 under cross-examination.

8 I wanted to raise it in the open forum
9 for other counsel to comment on. Without the ability
10 to speak to them, it will make it extremely difficult
11 to be ready to go with Panel No. 11 at the end of Panel
12 No. 10.

13 THE CHAIRMAN: Well, under the
14 circumstances, the Board doesn't have any particular
15 problem with that.

16 Do any counsel object at this point with
17 it clearly understood that we have Mr. Freidin's
18 undertaking that he would not discuss any of the
19 evidence given in this panel for which these witnesses
20 are now being cross-examined?

21 Does anybody have a problem?

22 MS. SEABORN: No objection, Mr. Chairman.

23 THE CHAIRMAN: Mr. Tuer?

24 MR. TUER: No, I think it is only fair
25 and appropriate.

1 THE CHAIRMAN: Very well. You may do it
2 under those circumstances, Mr. Freidin, and I take it
3 Forests for Tomorrow wouldn't have any objections?

4 MR. MANDELKER: I don't think so.

5 THE CHAIRMAN: Well, you might mention
6 this to Ms. Swenarchuk and, if she does, she can advise
7 us tomorrow.

8 Thank you.

9 MR. FREIDIN: In anticipation of
10 agreement, a meeting has been set up for this evening.
11 I would like permission to go ahead with that.

12 THE CHAIRMAN: Well, again, Ms.
13 Swenarchuk may raise some objections but, based on that
14 undertaking, I think the Board would be satisfied.

15 So I think you have permission to go
16 ahead.

17 MR. FREIDIN: Thank you.

18 THE CHAIRMAN: Very well. we will
19 adjourn until 9:00 a.m.

20 Thank you.

21 ---Whereupon the hearing adjourned at 5:05 p.m., to be
22 reconvened on Wednesday, April 12th, 1989,
commencing at 9:00 a.m.

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